

# EXHIBIT 1

## THE UNIVERSITY OF TEXAS AT AUSTIN Cockrell School of Engineering Standard Resume

**FULL NAME:** Evdokia V. Nikolova **TITLE:** Assistant Professor

**DEPARTMENT:** Electrical and Computer Engineering

### EDUCATION:

Massachusetts Institute of Technology	Electrical Engineering and Computer Science	Ph.D.	2009
Cambridge University	Mathematics	M.S.	2003
Harvard University	Computer Science	M.S.	2002
Harvard University	Applied Mathematics with Economics	B.A.	2002

**PROFESSIONAL REGISTRATION, LICENSURES, CERTIFICATIONS:** N/A

### CURRENT AND PREVIOUS ACADEMIC POSITIONS:

University of Texas at Austin	Asst. Professor	2014-present
Texas A&M University	Asst. Professor	2011-2013
Massachusetts Institute of Technology	Postdoctoral Associate	2009-2011

### OTHER PROFESSIONAL EXPERIENCE:

IBM Research	Visiting Professor	June 2012-Aug 2012
Google Research	Research Intern	July 2007-Aug 2007
Yahoo! Research	Research Intern	May 2006-Aug 2006
Mitsubishi Electric Research Labs	Research Intern	May 2005-Aug 2005
Mitsubishi Electric Research Labs	Research Intern	May 2004-Aug 2004
National Bureau of Economics Research	Research Assistant	Jan 1999-Jan 2001

**CONSULTING:** N/A

### HONORS AND AWARDS:

In rank - UT Austin

- NSF CAREER, 2014

In rank - Texas A&M

- Google Faculty Research Award, 2013.

In previous rank (prior to UT Austin and Texas A&M)

- Doctoral Fellowship in the Mathematical Sciences, American Foundation for Bulgaria (2006-2007)
- Presidential Fellowship, MIT (2003-2004)
- Herchel Smith Harvard Fellowship for 1 year study at Cambridge University, England (2002-2003)
- John Harvard and Elizabeth Cary Agassiz Scholarship, Harvard University (1998-2002)
- Flora Burt Fellowship, Harvard University (for travel in Argentina) (Aug-Sep. 2001)
- Detur Book Prize, Harvard University (1999)

- Third place, Euclid Mathematical Contest, British Columbia, Canada (1997)
- Fifth place nationwide, Bulgarian National Mathematics Olympiad (1996)
- First place, Journal “Matematika” national tournament, Bulgaria (1991)

#### MEMBERSHIPS IN PROFESSIONAL AND HONORARY SOCIETIES:

- Association for Computing Machinery (ACM) Member (2011-present)

#### UNIVERSITY COMMITTEE ASSIGNMENTS:

Departmental-	ECE Junior Faculty Hiring Committee	2016-2017
	ECE Junior Faculty Hiring Committee	2015-2016
	ORIE Junior Faculty Hiring Committee	2015-2016
	DICE PhD Admissions Committee	2014-present

#### PROFESSIONAL SOCIETY AND MAJOR GOVERNMENTAL COMMITTEES:

- Conference program committees:
  1. European Symposium of Algorithms (ESA) 2017.
  2. ACM Conference on Economics and Computation (EC) 2018, 2017, 2014, 2013, 2012, 2010.
  3. Conference on Artificial Intelligence (AAAI) 2017, 2016, 2013.
  4. International World Wide Web Conference (WWW) 2017, 2012.
  5. Conference on Web and Internet Economics (WINE) 2015.
- Federal funding agency review panels:
  1. NSF Panelist (April 2015, January 2014, April 2012).
  2. NSF STC (Science and Technology Centers) Competition, October 2012
- International funding agency reviewer:
  1. FONDECYT (NSF equivalent in Chile), November 2011.
- Paper reviewer:
  1. **Journals:** SIAM Journal of Computing, Theoretical Computer Science, Algorithmica, ACM Transactions on Economics and Computation (TEAC), Journal of Autonomous Agents and Multi-Agent Systems (JAAMAS), Operations Research, Operations Research Letters, Mathematical Programming, Mathematics of Operations Research, Transportation Science, IEEE Transactions on Automatic Control.
  2. **Conferences:** ACM Symposium on Theory of Computing (STOC), ACM-SIAM Symposium on Discrete Algorithms (SODA), ACM Conference on Economics and Computation (EC), Conference on Web and Internet Economics (WINE), International Symposium on Algorithmic Game Theory (SAGT), International Colloquium on Automata, Languages and Programming (ICALP), International Symposium on Theoretical Aspects of Computer Science (STACS), ACM Symposium on Parallel Algorithms and Architectures (SPAA), Conference on Decision and Control (CDC), MIT Oxygen Student Conference.
- Workshop Co-organizer:
  1. Simons semester on “Real-time Decision Making,” Spring 2018, Simons Institute for the Theory of Computing, Berkeley CA.
  2. Workshop on “Mathematical and Computational Challenges in Real-Time Decision Making,” Apr. 30—May 4, 2018, Simons Institute for the Theory of Computing, Berkeley CA.
  3. Workshop on “Real-Time Decision Making,” June 27—July 1, 2016, Simons Institute for the Theory of Computing, Berkeley CA.
  4. Winedale workshop on “Algorithmic Game Theory,” Winedale, TX, October 17, 2014.
  5. “Workshop on Risk Aversion in Algorithmic Game Theory and Mechanism Design” in conjunction with the ACM Conference on Electronic Commerce (EC), Valencia, Spain, June 7, 2012.

**COMMUNITY ACTIVITIES:**

- Co-taught the Edison Lecture Series to over 1000 middle-school and high-school students on February 11-12, 2016, Austin, TX.
- Speaker at Camp Texas (for incoming UT freshmen), Camp Balcones Springs, Texas, August 17, 2014; August 18, 2015; August 16, 2016.

**PUBLICATIONS:** (Student co-authors listed in **bold**.)

## A. Refereed Archival Journal Publications

In previous rank (prior to UT Austin and Texas A&M)

- J1. A. Hall, E. Nikolova, and C. Papadimitriou. "Incentive-Compatible Interdomain Routing with Linear Utilities," in Internet Mathematics, vol. 5(4), pp. 395-410, January 2008.  
<https://doi.org/10.1080/15427951.2008.10129169>

In rank – UT Austin

- J2. E. Nikolova, N.E. Stier-Moses. "A Mean-Risk Model for the Traffic Assignment Problem with Stochastic Travel Times," in Operations Research, vol. 62(2), pp. 366-382, April 2014.  
<https://doi.org/10.1287/opre.2013.1246>
- J3. G. Piliouras, E. Nikolova, and J. S. Shamma. "Risk Sensitivity of Price of Anarchy under Uncertainty," in ACM Transactions on Economics and Computation (TEAC), vol. 5(1), pp. 5:1-5:27, November 2016.  
<https://doi.org/10.1145/2930956>
- J4. **T. Lianeas**, E. Nikolova, N. E. Stier-Moses. "Risk-averse selfish routing," Forthcoming in Mathematics of Operations Research. (Accepted September 2017)

## B. Refereed Conference Proceedings

In previous rank (prior to UT Austin and Texas A&M)

- C1. D. Karger and E. Nikolova. "Brief Announcement: On the Expected Overpayment of VCG Mechanisms in Large Networks," Invited paper in Conference on Decision and Control (CDC), 2006. Brief Announcement in PODC 2005, pp. 126-126, Las Vegas, NV, July 17-20, 2005. Accepted presentation to DIMACS Workshop on Computational Issues in Auction Design, October 2004.  
<https://doi.org/10.1145/1073814.1073836>
- C2. N. Immorlica, D. Karger, E. Nikolova, and R. Sami. "First-Price Path Auctions," In Proceedings of ACM Conference on Electronic Commerce (ACM EC), pp. 203-212, Vancouver, BC, Canada, June 5-8, 2005. **(Acceptance Rate: 28%)**  
<https://doi.org/10.1145/1064009.1064031>
- C3. E. Nikolova, J. Kelner, M. Brand, M. Mitzenmacher. "Stochastic Shortest Paths via Quasi-convex Maximization," In Proceedings of 2006 European Symposium of Algorithms (ESA), pp. 552-563, Zurich, Switzerland, September 11-13, 2006. **(Acceptance Rate: 24%)**  
[https://doi.org/10.1007/11841036\\_50](https://doi.org/10.1007/11841036_50)

- C4. E. Nikolova, M. Brand, and D. Karger. "Optimal Route Planning under Uncertainty," In Proceedings of 2006 International Conference on Automated Planning & Scheduling (ICAPS), pp. 131-140, Cumbria, UK, June 6-10, 2006. **(Acceptance Rate: 33%)**  
<https://www.aaai.org/Papers/ICAPS/2006/ICAPS06-014.pdf>
- C5. Hall, E. Nikolova, and C. Papadimitriou. "Incentive-Compatible Interdomain Routing with Linear Utilities," In Proceedings of the 3rd International Workshop on Internet and Network Economics (WINE), pp. 232-244, San Diego, California, December 12-14, 2007.  
[https://doi.org/10.1007/978-3-540-77105-0\\_23](https://doi.org/10.1007/978-3-540-77105-0_23)
- C6. E. Nikolova and R. Sami. "A Strategic Model for Information Markets," In Proceedings of the Eighth ACM Conference on Electronic Commerce (ACM EC), pp. 316-325, San Diego, California, June 11-15, 2007. **(Acceptance Rate: 27%)**  
<https://doi.org/10.1145/1250910.1250956>
- C7. Y. Chen, L. Fortnow, E. Nikolova, and D. Pennock. "Betting on Permutations," In Proceedings of the Eighth ACM Conference on Electronic Commerce (ACM EC), pp. 326-335, San Diego, California, June 11-15, 2007. **(Acceptance Rate: 27%)**  
<https://doi.org/10.1145/1250910.1250957>
- C8. J.A. Kelner and E. Nikolova. "On the Hardness and Smoothed Complexity of Quasi-concave Minimization," In Proceedings of 48th Annual IEEE Symposium on Foundations of Computer Science (FOCS), pp. 472-482, Providence, RI, October 21-23, 2007. **(Acceptance Rate: 22%)**  
<https://doi.org/10.1109/FOCS.2007.68>
- C9. E. Nikolova and D.R. Karger. "Route Planning under Uncertainty: the Canadian Traveler Problem," In Proceedings of the Twenty-Third Conference on Artificial Intelligence (AAAI), pp. 969-974, Chicago, Illinois, July 13-17, 2008. **(Acceptance Rate: 24%)**  
<http://www.aaai.org/Papers/AAAI/2008/AAAI08-154.pdf>
- C10. J. Feldman, S. Muthukrishnan, E. Nikolova, M. Pal. "A Truthful Mechanism for Offline Ad Slot Scheduling," In Proceedings of the First International Symposium on Algorithmic Game Theory (SAGT), pp. 182-193, Paderborn, Germany, April 30-May 2, 2008.  
[https://doi.org/10.1007/978-3-540-79309-0\\_17](https://doi.org/10.1007/978-3-540-79309-0_17)
- C11. E. Nikolova. "High-performance Heuristics for Optimization in Stochastic Traffic Engineering Problems," In Proceedings of the Seventh International Conference on Large-Scale Scientific Computing (LSSC), pp. 352-360, Sozopol, Bulgaria, June 4-8, 2009.  
[https://doi.org/10.1007/978-3-642-12535-5\\_41](https://doi.org/10.1007/978-3-642-12535-5_41)
- C12. E. Nikolova. "Approximation Algorithms for Reliable Stochastic Combinatorial Optimization," In Proceedings of 13th Intl. Workshop on Approximation Randomization, and Combinatorial Optimization, Algorithms and Techniques (APPROX), pp. 338-351, Barcelona, Spain, September 1-3, 2010. **(Acceptance Rate: 42%)**  
[https://doi.org/10.1007/978-3-642-15369-3\\_26](https://doi.org/10.1007/978-3-642-15369-3_26)

In rank – Texas A&M

- C13. E. Nikolova and N. E. Stier-Moses. "Stochastic Selfish Routing," In Proceedings of the Fourth Symposium on Algorithmic Game Theory (SAGT '11), pp. 314-325, Salerno, Lecture Notes in Computer Science, Springer, Berlin, 2011. **(Acceptance Rate: 48%)**  
[https://doi.org/10.1007/978-3-642-24829-0\\_28](https://doi.org/10.1007/978-3-642-24829-0_28)



- C14. S. Lim, C. Sommer, E. Nikolova, and D. Rus. “Practical Route Planning Under Delay Uncertainty: Stochastic Shortest Path Queries,” In RSS - Robotics: Science and Systems VIII, vol. 8(32), pp. 249-256, Sydney, Australia, July 9-13, 2012. **(Acceptance Rate: 33%)**  
<http://roboticsproceedings.org/rss08/p32.pdf>
- C15. A. Botea, E. Nikolova, M. Berlingerio. “Multi-Modal Journey Planning in the Presence of Uncertainty,” In Proceedings of the International Conference on Automated Planning and Scheduling (ICAPS), pp. 20-28, Rome, Italy, June 10-14, 2013. **(Acceptance Rate: 28%)**  
<https://www.aaai.org/ocs/index.php/ICAPS/ICAPS13/paper/viewPaper/6023>
- C16. H. Chenji, L. Smith, R. Stoleru, E. Nikolova. “Raven: Energy Aware QoS Control for DRNs,” In IEEE 9th International Conference on Wireless and Mobile Computing, Networking and Communications (WiMob), Lyon, France, October 7-9, 2013. **(Acceptance Rate: 29%)**  
<https://doi.org/10.1109/WiMOB.2013.6673400>
- C17. G. Piliouras, E. Nikolova and J. S. Shamma. “Risk Sensitivity of Price of Anarchy under Uncertainty,” In Proceedings of the 14th ACM Conference on Electronic Commerce (ACM EC), pp. 715-732, Philadelphia, Pennsylvania, June 16-20, 2013. **(Acceptance Rate: 32%)**  
<http://people.sutd.edu.sg/~georgios/papers/ec13-piliouras.pdf>
- C18. J. Y. Yu and E. Nikolova. “Sample Complexity of Risk-averse Bandit-Arm Selection,” In Proceedings of the International Joint Conferences on Artificial Intelligence (IJCAI), pp. 2576-2582, Beijing, China, August 3-9, 2013. **(Acceptance Rate: 28%)**  
<http://ijcai.org/papers13/Papers/IJCAI13-379.pdf>

In rank – UT Austin

- C19. D. Hoy, E. Nikolova. “Approximately Optimal Risk-Averse Routing Policies via Adaptive Discretization,” In Proceedings of the Twenty-Ninth AAAI Conference on Artificial Intelligence (AAAI-15). Austin, TX, January 25-29, 2015. **(Acceptance Rate: 27%)**  
<https://www.aaai.org/ocs/index.php/AAAI/AAAI15/paper/viewPaper/9996>
- C20. E. Nikolova, N. E. Stier-Moses. “The Burden of Risk Aversion in Mean-Risk Selfish Routing,” In Proceedings of the Sixteenth ACM Conference on Economics and Computation (ACM EC), pp. 489-506, Portland, OR, June 15-19, 2015. **(Acceptance Rate: 33%)**  
<https://doi.org/10.1145/2764468.2764485>
- C21. S. Basu, T. Lianeas, E. Nikolova. “New Complexity Results and Algorithms for the Minimum Tollbooth Problem,” In Proceedings of the 2015 Conference on Web and Internet Economics (WINE’15), pp. 89-103, Amsterdam, The Netherlands, December 9-12, 2015. **(Acceptance Rate: 27%)**  
[https://doi.org/10.1007/978-3-662-48995-6\\_7](https://doi.org/10.1007/978-3-662-48995-6_7)
- C22. G. Yang, E. Nikolova. “Approximation Algorithms for Route Planning with Nonlinear Objectives,” In Proceedings of the Thirtieth AAAI Conference on Artificial Intelligence (AAAI 2016), pp. 3209-3215, Phoenix, Arizona, February 12-17, 2016. **(Acceptance Rate: 26%)**  
<https://www.aaai.org/ocs/index.php/AAAI/AAAI16/paper/viewPaper/11967>
- C23. T. Lianeas, E. Nikolova, N. E. Stier Moses. “Asymptotically Tight Bounds for Inefficiency in Risk-averse Selfish Routing,” In Proceedings of the 25th International Joint Conference on Artificial Intelligence (IJCAI 2016), pp. 338-344, New York, NY, USA, July 9-15, 2016. **(Acceptance Rate: 24%)**  
<https://www.ijcai.org/Proceedings/16/Papers/055.pdf>

- C24. **S. Basu, G. Yang, T. Lianeas**, E. Nikolova, and **Y. Chen**. “Reconciling Selfish Routing with Social Good,” In Proceedings of the 10th International Symposium on Algorithmic Game Theory (SAGT), pp. 147-159, L’Aquila, Italy, September 12-14, 2017. **(Acceptance Rate: 45%)**  
[https://doi.org/10.1007/978-3-319-66700-3\\_12](https://doi.org/10.1007/978-3-319-66700-3_12)
- C25. R. Shafipour, **A. Khodabakhsh**, G. Mateos, and E. Nikolova. “A Digraph Fourier Transform with Spread Frequency Components,” In Proceedings of IEEE Global Conference on Signal and Information Processing (GlobalSIP 2017), pp. 583-587, Montreal, Canada, November 14-16, 2017.  
<https://doi.org/10.1109/GlobalSIP.2017.8309026>
- C26. **A. Khodabakhsh, G. Yang, S. Basu**, E. Nikolova, M. Caramanis, **T. Lianeas, E. Pountourakis**. “A Submodular Approach for Electricity Distribution Network Reconfiguration,” In 51st Hawaii International Conference on System Sciences (HICSS), Hawaii, USA, January 3-6, 2018. **Nominated for Best Paper award. Only 24 papers in Energy track accepted each year, top venue in Power Systems.**  
<http://doi.org/10.24251/HICSS.2018.344>
- C27. R. Shafipour, **A. Khodabakhsh**, G. Mateos, and E. Nikolova. “Digraph Fourier Transform via Spectral Dispersion Minimization,” In Proceedings of IEEE International Conference on Acoustics, Speech and Signal Processing (ICASSP 2018), Calgary, Alberta, Canada, April 15-20, 2018. **Best student paper award.**
- C28. J. Correa, C. Guzman, **T. Lianeas**, E. Nikolova, M. Schroeder. “Network Pricing: How to Induce Optimal Flows Under Strategic Link Operators,” In Proceedings of the Nineteenth ACM Conference on Economics and Computation (EC 2018), Ithaca, NY, June 19-21, 2018. **(Acceptance Rate: 25%)**
- C29. D. Applegate, A. Archer, D. S. Johnson, E. Nikolova, M. Thorup, **G. Yang**. “Wireless Coverage Prediction via Parametric Shortest Paths,” In Proceedings of the Nineteenth International Symposium on Mobile Ad Hoc Networking and Computing (MobiHoc 2018), Los Angeles, USA, June 26-29, 2018. **(Acceptance Rate: 17%)**
- C30. R. Cole, **T. Lianeas**, E. Nikolova. “When Does Diversity of Agent Preferences Improve Outcomes in Selfish Routing?” In Proceedings of the 27th International Joint Conference on Artificial Intelligence (IJCAI), 2018. **(Acceptance Rate: 20%)**

#### D. Other Major Publications

In previous rank (prior to UT Austin and Texas A&M)

- S1. Y. Chen, L. Fortnow, E. Nikolova, and D. M. Pennock. Combinatorial betting. ACM SIGecom Exchanges, vol. 7(1), pp. 61-64, December 2007. Invited Survey.  
<https://doi.org/10.1145/1345037.1345053>

#### ORAL PRESENTATIONS:

In previous rank (prior to UT Austin and Texas A&M)

- O1. From Stochastic Shortest paths to Quasi-concave Minimization, University of California, San Diego. Seminar on Theory and Algorithms Research, CA, December 2006.
- O2. From Stochastic Shortest paths to Quasi-concave Minimization, MIT Algorithms and Complexity Seminar, Cambridge, MA, December 2006.
- O3. From Stochastic Shortest paths to Quasi-concave Minimization, Rensselaer Polytechnic Institute CS Theory Colloquium, Troy, NY, October 2007.
- O4. From Stochastic Shortest paths to Quasi-concave Minimization, Dartmouth University CS Theory Colloquium, Hanover, NH, October 2007.

- O5. Design & Computation in Prediction Markets, Dartmouth University, Computer Science Colloquium, Hanover, NH, October 2007.
- O6. From Stochastic Shortest paths to Quasi-concave Minimization, University of Wisconsin-Madison, Theory Colloquium, Madison, WI, November 2007.
- O7. Design & Computation in Prediction Markets, Microsoft Research, Redmond, WA, November 2007.
- O8. From Stochastic Shortest paths to Quasi-concave Minimization, IBM Almaden, San Jose, CA, December 2007.
- O9. Design & Computation in Prediction Markets, Microsoft Research, Mountain View, CA, December 2007.
- O10. From Stochastic Shortest paths to Quasi-concave Minimization, Stanford University Algorithms Seminar, Stanford, CA, December 2007.
- O11. Strategic algorithms, Microsoft Research, Seattle, WA, January 2008.
- O12. Strategic algorithms, Duke University, Durham, NC, March 2008.
- O13. Design & Computation in Prediction Markets, GAMES–Third World Congress of the Game Theory Society, Chicago, IL, July 2008.
- O14. Strategic algorithms, Georgia Institute of Technology, Atlanta, GA, February 2009.
- O15. Design & Computation in Prediction Markets, Cornell University, Ithaca, NY, April 2009.
- O16. From Stochastic Shortest paths to Quasi-concave Minimization, State University of New York at Stony Brook, Stony Brook, NY, May 2009.
- O17. Design & Computation in Prediction Markets, University of Girona, Girona, Spain, July 2009.
- O18. From Stochastic Shortest paths to Quasi-concave Minimization, Massachusetts Institute of Technology, Cambridge, MA, April 2010.
- O19. Algorithms for Risk-averse Combinatorial Optimization, Georgetown University, Washington, DC, February 2011.
- O20. Algorithms for Risk-averse Combinatorial Optimization, Northwestern University, Evanston, IL, February 2011.
- O21. Algorithms for Risk-averse Combinatorial Optimization, Carnegie Mellon University, Pittsburgh, PA, February 2011.
- O22. Algorithms for Risk-averse Combinatorial Optimization, Google, Zurich, Switzerland, March 2011.
- O23. Algorithms for Risk-averse Combinatorial Optimization, IBM, Zurich, Switzerland, March 2011.
- O24. Design & Computation in Prediction Markets, ETH, Zurich, Switzerland, March 2011.
- O25. Algorithms for Risk-averse Combinatorial Optimization, ETH, Zurich, Switzerland, March 2011.
- O26. Algorithms for Risk-averse Combinatorial Optimization, EPFL, Lausanne, Switzerland, March 2011.

In rank – Texas A&M

- O27. Risk in network games, Texas A&M University, Dept. of Economics, College Station, TX, February 2012.
- O28. Risk in network games, Rice University, Dept. of Economics, Houston, TX, March 2012.
- O29. Algorithms for Risk-averse Combinatorial Optimization, Rice University, Dept. of Computational and Applied Math., Houston, TX, April 2012.
- O30. Algorithms for Risk-averse Combinatorial Optimization, UT Austin, Austin, TX, April 2012.
- O31. Risk in network games, Summer School on Algorithmic Game Theory, Samos, Greece, July 2012.
- O32. Introduction to network congestion games, Summer School on Algorithmic Game Theory, Samos, Greece, July 2012.
- O33. Risk in network routing, IBM Research, Dublin, Ireland, July 2012.

- O34. Risk in network games, Texas Economic Theory Day, Dallas, TX, October 2012.
- O35. Risk in routing and games, University of Buenos Aires, Argentina, March 8, 2013.
- O36. Risk in routing and games, UNICAMP, Campinas, Brazil, March 20, 2013.
- O37. Risk in network games, Transportation seminar, Dept. of Civil Engineering, Texas A&M University, Austin, TX, March 26, 2013.
- O38. Risk in network routing games, UT Austin, Austin, TX, April 1, 2013.
- O39. Risk in network games, University of Maryland-College Park, April 19, 2013.
- O40. Risk in network routing, IBM-Almaden, San Jose, CA, June 5, 2013.

In rank – UT Austin

- O41. Risk-mitigation in route planning, Keynote talk at Workshop on Eco-friendly mobility, Zurich, Switzerland, January 22, 2014.
- O42. Risk-mitigation in route planning, ORIE Seminar, UT Austin, Austin, TX, January 31, 2014.
- O43. Approximation algorithms for risk-averse combinatorial optimization, London School of Economics, London, UK, July 2, 2014.
- O44. Approximation algorithms for risk-averse combinatorial optimization, 7th work- shop on Flexible Network Design, Lugano, Switzerland, July 31, 2014.
- O45. The burden of risk aversion in mean-risk selfish routing, Random Structures Seminar, Dept. of Mathematics, UT Austin, Austin, TX, December 3, 2014.
- O46. The burden of risk aversion in mean-risk selfish routing, Combinatorial Optimization and Graph Algorithms (COGA) Seminar, Technical University of Berlin, Berlin, Germany, January 15, 2015.
- O47. The burden of risk aversion in mean-risk selfish routing, Technical University of Munich, Munich, Germany, January 20, 2015.
- O48. The burden of risk aversion in mean-risk selfish routing, Conference on Information Theory and Applications (ITA) 2015, San Diego, CA, February 5, 2015.
- O49. The burden of risk aversion in mean-risk selfish routing, The University of Chile, Santiago, Chile, March 18, 2015.
- O50. The burden of risk aversion in mean-risk selfish routing, Algorithms Seminar, The University of Texas at Austin, Austin, TX, April 17, 2015.
- O51. Approximation algorithms for offline risk-averse combinatorial optimization, The University of Chile, Santiago, Chile, May 27, 2015.
- O52. The burden of risk aversion in mean-risk selfish routing, Transportation Seminar, EECS Department, UC Berkeley, Berkeley, CA, August 28, 2015.
- O53. Algorithms and algorithmic game theory for risk mitigation in networks, Simons Institute, Berkeley, CA, September 29, 2015.
- O54. The burden of risk aversion in mean-risk selfish routing, Theory seminar, Department of Computer Science, University of Southern California, Los Angeles, CA, October 2, 2015.
- O55. Algorithms for risk-averse routing, Google Research, Mountain View, CA, October 29, 2015.
- O56. Algorithms for risk mitigation in networks, Simons Institute for the Theory of Computing, Berkeley, CA, June 28, 2016.
- O57. Risk-averse selfish routing, Conference on Information Theory and Applications (ITA) 2015, San Diego, CA, February 16, 2017.

- O58. Risk-averse selfish routing, Dagstuhl Seminar on Game Theory in AI, Logic, and Algorithms (17111), Schloss Dagstuhl, Germany, March 14, 2017.
- O59. Network Pricing: How to Induce Optimal Flows Under Strategic Link Operators, Simons Institute for the Theory of Computing, Berkeley, CA, April 20, 2017.
- O60. Risk-averse selfish routing, 6<sup>th</sup> Workshop on Stochastic Methods in Game Theory, Erice, Italy, May 10, 2017.
- O61. Network Pricing: How to Induce Optimal Flows Under Strategic Link Operators, Microsoft Research, New England, Cambridge, MA, June 21, 2017.
- O62. Network Pricing: How to Induce Optimal Flows Under Strategic Link Operators, Keynote Talk at the 12th Athens Colloquium on Algorithms and Complexity (ACAC'17), Athens, Greece, August 24, 2017.
- O63. Network Pricing: How to Induce Optimal Flows Under Strategic Link Operators, Keynote Talk at the Ninth Workshop on Dynamic Games in Management Science, HEC Montreal, Montreal, Canada, October 13, 2017.
- O64. A Brief Introduction to Algorithms, Game Theory and Risk-averse Decision Making, Simons Institute, Berkeley, CA, January 24, 2018.
- O65. Risk-averse Selfish Routing, Simons Institute, Berkeley, CA, March 28, 2018.
- O66. When Does Diversity of Agent Preferences Improve Outcomes in Selfish Routing, Mathematical and Computational Challenges in Real-Time Decision Making Workshop, Simons Institute, April 30th, 2018.

**DISCLOSURES, PATENTS PENDING, AND PATENTS AWARDED (work conducted in previous rank, prior to UT Austin and Texas A&M)**

- P1. E. Nikolova, M. Brand. Method for finding minimal cost paths under uncertainty. U.S. Application. Pub No. US20080025222. Filed: 07/26/2006. Published: 01/31/2008.
- P2. Y. Chen, E. Nikolova, D. Pennock. System and method for permutation betting. U.S. Application. Pub No. 20080220855. Published: 9/11/2008.
- P3. E. Nikolova, M. Brand, M. Mitzenmacher. Method for finding optimal paths using a stochastic network model, US Patent No. 7,573,866. Filed: Aug. 30, 2006. Issued: 08/11/2009.
- P4. J. Feldman, S. Muthukrishnan, M. Pal, Evdokia V. Nikolova. Content Item Slot Scheduling. U.S. Application. Pub No. 20100049644. Published: 2/25/2010.

**GRANTS AND CONTRACTS:**

Co-PI	Title	Agency/Sponsor	Grant Total	Candidate Share	Grant Period	Status
<b>Granted in rank at Texas A&amp;M</b>						
---	<b>ICES: Small: Risk Aversion in Algorithmic Game Theory and Mechanism Design</b>	NSF: Division of Computing and Communication Foundations	\$370,000	\$370,000	8/1/12-8/31/17	funded
---	<b>Maps Directions under Deadlines</b>	Google Faculty Research Award	\$41,000	\$41,000	2013	funded

PI: Le Xie (Texas A&M) Co-PI: Pravin Varaiya (UC Berkeley)	<b>Collaborative Research: CyberSEES: Coupon Incentive-based Risk Aware Demand Response in Smart Grid</b>	NSF: Division of Computing and Communication Foundations	\$1,000,000	\$311,000	10/1/13-9/30/18	funded
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**Granted in rank at UT Austin**

---	<b>CAREER: Algorithms for Risk Mitigation in Networks</b>	NSF: Division of Computing and Communication Foundations	\$448,123	\$448,123	5/15/14-4/30/19	funded
Co-PI: Michael C. Caramanis (Boston University)	<b>AitF: Collaborative Research: Algorithms and Mechanisms for the Distribution Grid</b>	NSF: Division of Computing and Communication Foundations	\$800,000	\$479,985	10/1/17-9/30/21	funded
PI: Georgios B. Giannakis (University of Minnesota) Co-PI: Sairaj Dhople (University of Minnesota), Mingyi Hong (University of Minnesota), Yousef Saad (University of Minnesota), Hao Zhu (UT ECE), Ross Baldick (UT ECE), Constantine Caramanis (UT ECE), Lang Tong (Cornell), David Bindel (Cornell), Eilyan Bitar (Cornell), Ari Juels (Cornell), Vassilis Kekatos (Virginia Tech), Walid Saad (Virginia Tech), Nikolas D. Sidiropoulos (University of Virginia), Zongli Lin (University of Virginia), Emiliano Dall'Anese (University of Colorado Boulder), Lucy Pao (University of Colorado Boulder)	<b>DNS4CES: Data- and Network-driven Science for Complex Energy Systems</b>	Department of Energy (DOE) Office of Science Program Office	\$10,000,000	\$400,000	10/1/18-9/30/22	Submitted (pending)

Career Total	\$2,659,123
Career Candidate Share	\$1,650,108
In Rank Total	\$2,659,123
In Rank Candidate Share	\$1,650,108

**M.S. STUDENTS:**

none

**PH.D. IN PROGRESS:****A. Students defended**

Yang, Ger (Nov 2017); passed, expected graduation Aug. 2018

**B. Students admitted to candidacy**

N/A

**C. Post M.S. students preparing to take Ph.D. qualifying exam**

Basu, Soumya (Spring 2018, co-supervisor: Sanjay Shakkottai)

Khodabakhsh, Ali (Fall 2018)

Orestis Papadigenopoulos (Fall 2019)

Giotis, Isidoros (Fall 2020)

Ramesan, Nithin (Fall 2020, co-supervisor: Francois Baccelli)

Vakaliou, Eftychia (Fall 2021)

**POSTDOCS:**

Pountourakis, Emmanouil (April 2017-present)

Lianas, Thanasis (April 2015-Dec.2017)

**OTHER ADVISING AND RELATED STUDENT SERVICE:**In previous rank (prior to UT Austin and Texas A&M)

Research Science Institute (RSI) [in collaboration with MIT to promote research among talented high school students worldwide] Research Mentor to:

Yifei Chen for his paper “Overpayment in Strategyproof Payment Schemes.” (Summer 2004)

Fatima-Ezzahra Izma for her paper “Independent Sets in Special Types of Graphs.” (Summer 2005)

In rank – UT Austin

Sofya Vorotnikova – Simons Fellow and official mentee for the duration of the research program “Real-time Decision Making”, Spring 2018 at the Simons Institute for the Theory of Computing, Berkeley, CA.

**TEACHING:**

Course	Name	Semester	Enrollment	Instructor	Course
EE360C	<b>Algorithms</b>	Fall 2017	69	3.9	3.7
EE360C	<b>Algorithms</b>	Fall 2017	65	3.7	3.3
EE381V	<b>Advanced Algorithms</b>	Spring 2017	26	3.9	3.5
EE360C	<b>Algorithms</b>	Fall 2016	82	3.9	3.4
EE381V	<b>Advanced Algorithms</b>	Spring 2015	22	4.3	4.1
EE360C	<b>Algorithms</b>	Fall 2014	61	4.0	3.7
EE381V	<b>Game Theory</b>	Spring 2014	16	4.1	4.1



## Previous Teaching at Texas A&amp;M University

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CSCE489	Special Topics in Algorithmic Game Theory	Fall 2013
CSCE411H	Design and Analysis of Algorithms	Spring 2013
CSCE629	Analysis of Algorithms	Fall 2012
CSCE689	Special Topics in Algorithmic Game Theory	Spring 2012
CSCE689	Special Topics in Stochastic Optimization	Fall 2011

**VITA:**

Evdokia Nikolova is an Assistant Professor in the Department of Electrical and Computer Engineering at the University of Texas at Austin, where she is a member of the Wireless Networking & Communications Group and Decision, Information, and Communication Engineering (DICE). She graduated with a BA in Applied Mathematics with Economics from Harvard University, MS in Mathematics from Cambridge University, U.K. and Ph.D. in Computer Science from MIT.

Evdokia Nikolova's research aims to improve the design and efficiency of complex systems (such as infrastructure networks and electronic markets), by integrating stochastic, dynamic and economic analysis. Her recent work examines how human risk aversion transforms traditional computational models and solutions. One of her algorithms has been adapted in the MIT [CarTel](#) project for traffic-aware routing. She currently focuses on developing algorithms for risk mitigation in networks, with applications to transportation and energy. She is a recipient of an NSF CAREER award.

## Candidate's Summary of Activities

**Evdokia Nikolova**

<b>Metric</b>	<b>Value</b>
Peer-reviewed journal publications (in rank and total)	3/4
Peer-reviewed conference proceedings (in rank and total)	18/30
<b><i>Number of journal papers in rank with supervised student(s) and/or post-docs from UT as co-author(s)</i></b>	1
Number of journal papers in rank with supervised student(s) from UT as co-author*	0
Total citations of all publications (career) from ISI Web of Knowledge	79
<b><i>Largest number of citations for a single paper based on work at UT (ISI Web of Knowledge)</i></b>	11
h-index (career) from ISI Web of Knowledge	4
Total citations of all publications (career) from Google Scholar	923
<b><i>Largest number of citations for a single paper based on work at UT (Google Scholar)</i></b>	40
h-index (career) from Google Scholar	17
Total external research funding raised in rank	\$2,659,123
Total external research funding raised in rank (candidate's share)	\$1,650,108
Total number of external grants/contracts awarded in rank	5
Number of external grants/contracts awarded in rank as PI	4
PhD students completed ( <i>sole supervisions and co-supervisions</i> )† (1 expected graduation Aug. 2018)	0
MS students completed ( <i>sole supervisions and co-supervisions</i> )†	0
PhD students in pipeline ( <i>sole supervisions and co-supervisions</i> as of 8/31/2018) †	4/2
MS students in pipeline ( <i>sole supervisions and co-supervisions</i> as of 8/31/2018) †	0
Number of courses taught	7
Total number of students taught in organized courses	341
Average instructor rating for undergraduate courses	3.9
Average instructor rating for graduate courses	4.1
Average course rating for undergraduate courses	3.5
Average course rating for graduate courses	3.9
Number of teaching awards	0
Student organizations advised	0
Undergraduate researchers supervised	19
Service on journal editorial boards	0
Number of symposia organized	4

**Complete reverse chronological list of publications and scholarly/creative works**  
**Evdokia Nikolova**

Candidate's dissertation title: Strategic Algorithms

Candidate's dissertation advisor: David Karger

**Section 1. Works published (or in an equivalent status), in press, accepted, or under contract while in current rank at UT Austin.**

Note: my group members are highlighted in *Italic*.

**Refereed archival journal publications in rank**

1. *T. Lianeas*, E. Nikolova, N. E. Stier-Moses. "Risk-averse selfish routing," Mathematics of Operations Research, forthcoming. (Accepted September 2017)
  - Co-authors: T. Lianeas, postdoctoral fellow in my group; N.E. Stier-Moses, research scientist manager at Facebook (Menlo Park, CA).
  - Qualitative statement of contribution: Equally with Stier Moses, I initiated the research project and contributed to the problem definition, upper bound proofs and writing of the paper. My postdoc Thanasis Lianeas derived the lower bound proofs and writing of that part of the paper, as well as the overall writing and revisions of the paper.
2. G. Piliouras, E. Nikolova and J. S. Shamma. "Risk Sensitivity of Price of Anarchy under Uncertainty." in ACM Transactions on Economics and Computation (TEAC), vol. 5(1), pp. 5:1-5:27, November 2016. <https://doi.org/10.1145/2930956>
  - Co-authors: G. Piliouras, faculty peer in Singapore University of Technology and Design (Singapore); J. S. Shamma, faculty peer in King Abdullah University of Science and Technology (Saudi Arabia).
  - Qualitative statement of contribution: I initiated the project with (then postdoc) Georgios Piliouras, and contributed to formalizing the problem definition, different models of risk-aversion and some of the analysis and writing.
3. E. Nikolova, N. Stier-Moses. "A Mean-Risk Model for the Traffic Assignment Problem with Stochastic Travel Times," in Operations Research, vol. 62(2), pp. 366-382, April 2014. <https://doi.org/10.1287/opre.2013.1246>
  - Co-authors: N.E. Stier-Moses, research scientist manager at Facebook (Menlo Park, CA).
  - Qualitative statement of contribution: This work was an equal 50% contribution of all aspects of this work, both intellectual and writing. All aspects of the research were developed in collaboration between myself and Stier-Moses over many joint discussions.

**Refereed conference proceedings in rank**

1. R. Cole, *T. Lianeas*, E. Nikolova. “When Does Diversity of Agent Preferences Improve Outcomes in Selfish Routing?” in Proceedings of the 27th International Joint Conference on Artificial Intelligence (IJCAI 2018), Stockholm, Sweden, July 13-19, 2018. **(Acceptance Rate: 20%)**
  - Co-authors: R. Cole, faculty peer in New York University; T. Lianeas, postdoctoral fellow in my group.
  - Qualitative statement of contribution: I and Richard Cole in several joint discussions came up with the project idea based on an earlier paper of mine, formalized the mathematical model and performed some of the initial analysis. Later, I invited my postdoc Thanasis Lianeas to join the project and, through multiple joint discussions and additional technical work by Lianeas, we developed the rest of the intellectual content and writing.
2. D. Applegate, A. Archer, D. S. Johnson, E. Nikolova, M. Thorup, *G. Yang*. “Wireless Coverage Prediction via Parametric Shortest Paths,” in Proceedings of the Nineteenth International Symposium on Mobile Ad Hoc Networking and Computing (MobiHoc 2018), Los Angeles, USA, June 26-29, 2018. **(Acceptance Rate: 17%)**
  - Co-authors: D. Applegate, research scientist at Google (New York City, NY); A. Archer, research scientist at Google (New York City, NY); D. S. Johnson, deceased; M. Thorup, faculty peer in University of Copenhagen (Netherlands); G. Yang, doctoral student in my group.
  - Qualitative statement of contribution: The four non-UT authors (other than myself and Ger Yang) had started and done preliminary theoretical work on this project and it was in hiatus when, in a discussion with Aaron Archer I discovered that some of their preliminary work was subsumed by some of my earlier work on stochastic shortest paths. I invited my student Ger Yang to join the project and, under my direction, perform experimental results for the project, as well as some additional technical analysis, building on my previous work. I also contributed to the framing and writing of the paper.
3. J. Correa, C. Guzman, *T. Lianeas*, E. Nikolova, M. Schroeder. “Network Pricing: How to Induce Optimal Flows Under Strategic Link Operators,” in Proceedings of the Nineteenth ACM Conference on Economics and Computation (EC 2018), Ithaca, NY, June 19-21, 2018. **(Acceptance Rate: 25%)**
  - Co-authors: J. Correa, faculty peer in Universidad de Chile (Chile); C. Guzman, faculty peer in Universidad Católica de Chile (Chile); T. Lianeas, postdoctoral fellow in my group; M. Schroeder, faculty peer in RWTH Aachen University (Germany).
  - Qualitative statement of contribution: I gave the idea for the project and formalized the problem statement with Jose Correa. The two of us in 50-50 collaboration performed some of the initial analysis. Jose then invited his then-postdocs Cristobal Guzman and Marc Schroeder, and I invited my postdoc Thanasis Lianeas to join the project, and the five of us over multiple joint discussions developed the rest of the intellectual content and writing.

4. R. Shafipour, A. Khodabakhsh, G. Mateos, and E. Nikolova. "Digraph Fourier Transform via Spectral Dispersion Minimization," in Proceedings of IEEE International Conference on Acoustics, Speech and Signal Processing (ICASSP 2018), Calgary, Alberta, Canada, April 15-20, 2018. **Best student paper award.**
  - Co-authors: R. Shafipour, doctoral student in Prof. Mateos's group, University of Rochester; A. Khodabakhsh, doctoral student in my group; G. Mateos, faculty peer in University of Rochester.
  - Qualitative statement of contribution: This is part of my student Ali Khodabakhsh's Ph.D. research; the student and fellow PhD student Rasoul Shafipour at the University of Rochester performed the majority of the work, with my assistance as Ali's advisor both on the intellectual content and of the written work.
5. A. Khodabakhsh, G. Yang, S. Basu, E. Nikolova, M. C. Caramanis, T. Lianeas, M. Pountourakis. "A Submodular Approach for Electricity Distribution Network Reconfiguration," in 51st Hawaii International Conference on System Sciences (HICSS), Hawaii, USA, January 3-6, 2018. **Nominated for Best Paper award. Only 24 papers in Energy track accepted each year, top prestigious conference in Power Systems.**
  - Co-authors: A. Khodabakhsh, doctoral student in my group; G. Yang, doctoral student in my group; S. Basu, doctoral student in my group; M. C. Caramanis, faculty peer in Boston University; T. Lianeas, postdoctoral fellow in my group; M. Pountourakis, postdoctoral fellow in my group.
  - Qualitative statement of contribution: I initiated this project and together with my student Ali Khodabakhsh, formalized the mathematical model. This is part of Ali's Ph.D. research; the student performed the majority of the work, with some collaboration with my other students Ger Yang and Soumya Basu, and my postdoc Thanasis Lianeas on the hardness proof, and with my assistance as Ali's advisor both on the intellectual content and of the written work.
6. R. Shafipour, A. Khodabakhsh, G. Mateos, and E. Nikolova. "A Digraph Fourier Transform with Spread Frequency Components," in Proceedings of IEEE Global Conference on Signal and Information Processing (GlobalSIP 2017), pp. 583-587, Montreal, Canada, November 14-16, 2017. <https://doi.org/10.1109/GlobalSIP.2017.8309026>
  - Co-authors: R. Shafipour, doctoral student in Prof. Mateos's group, University of Rochester; A. Khodabakhsh, doctoral student in my group; G. Mateos, faculty peer in University of Rochester.
  - Qualitative statement of contribution: This is part of my student Ali Khodabakhsh's Ph.D. research; the student and fellow PhD student Rasoul Shafipour at the University of Rochester performed the majority of the work, with my assistance as Ali's advisor both on the intellectual content and of the written work.
7. S. Basu, G. Yang, T. Lianeas, E. Nikolova, and Y. Chen. "Reconciling Selfish Routing with Social Good," in Proceedings of the 10th International Symposium on Algorithmic Game

Theory (SAGT), pp. 147-159, L'Aquila, Italy, September 12-14, 2017. (**Acceptance Rate: 45%**) [https://doi.org/10.1007/978-3-319-66700-3\\_12](https://doi.org/10.1007/978-3-319-66700-3_12)

- Co-authors: S. Basu, doctoral student in my group; G. Yang, doctoral student in my group; T. Lianeas, postdoctoral fellow in my group; Y. Chen, doctoral student in my group at the time.
  - Qualitative statement of contribution: I initiated the project and developed a formal mathematical model with technical questions. I then directed the other co-authors – all members of my research group, in developing the intellectual content and writing of the paper. As a lead contributor, my PhD student Soumya Basu will include this project in his dissertation.
8. *T. Lianeas, E. Nikolova, N. E. Stier Moses*. “Asymptotically Tight Bounds for Inefficiency in Risk-averse Selfish Routing,” in Proceedings of the 25th International Joint Conference on Artificial Intelligence (IJCAI 2016), pp. 338-344, New York, NY, USA, July 9-15, 2016. (**Acceptance Rate: 24%**) <https://www.ijcai.org/Proceedings/16/Papers/055.pdf>
- Co-authors: T. Lianeas, postdoctoral fellow in my group; N.E. Stier-Moses, research scientist manager at Facebook (Menlo Park, CA).
  - Qualitative statement of contribution: This paper builds on my paper #11 below with Nicolas Stier Moses, where we defined the concept of “Price of Risk Aversion” and proved an upper bound for that concept. Under my suggestion to my postdoc Thanasis Lianeas to consider this problem, he developed the lower bound for that concept, which is in the current paper, and all three of us contributed to the remaining intellectual content and the overall writing of the paper.
9. *G. Yang, E. Nikolova*. “Approximation Algorithms for Route Planning with Nonlinear Objectives,” in Proceedings of the Thirtieth AAAI Conference on Artificial Intelligence (AAAI 2016), pp. 3209-3215, Phoenix, Arizona, February 12-17, 2016. (**Acceptance Rate: 26%**) <https://www.aaai.org/ocs/index.php/AAAI/AAAI16/paper/viewPaper/11967>
- Co-authors: G. Yang, doctoral student in my group.
  - Qualitative statement of contribution: This is part of my student Ger Yang’s Ph.D. research; the student performed the majority of the work, with my assistance as advisor both on the intellectual content and of the written work.
10. *S. Basu, T. Lianeas, E. Nikolova*. “New Complexity Results and Algorithms for the Minimum Tollbooth Problem,” in Proceedings of the 2015 Conference on Web and Internet Economics (WINE’15), pp.89-103, Amsterdam, The Netherlands, December 9-12, 2015. (**Acceptance Rate: 27%**) [https://doi.org/10.1007/978-3-662-48995-6\\_7](https://doi.org/10.1007/978-3-662-48995-6_7)
- Co-authors: S. Basu, doctoral student in my group; T. Lianeas, postdoctoral fellow in my group.
  - Qualitative statement of contribution: This is part of my student Soumya Basu’s Ph.D. research; the student performed the majority of the work, with my assistance as advisor both on the intellectual content and of the written work. I proposed the problem to study and the student was also assisted by my postdoc Thanasis Lianeas in some of the

intellectual contributions (theorem proofs and algorithm design).

11. E. Nikolova, N. Stier-Moses. “The Burden of Risk Aversion in Mean-Risk Selfish Routing,” in Proceedings of the Sixteenth ACM Conference on Economics and Computation (ACM EC), pp.489-506, Portland, OR, June 15-19, 2015. **(Acceptance Rate: 33%)**  
<https://doi.org/10.1145/2764468.2764485>
  - Co-authors: N.E. Stier-Moses, research scientist manager at Facebook (Menlo Park, CA).
  - Qualitative statement of contribution: All aspects of this research were developed in collaboration between myself and Stier-Moses over many joint discussions. This work was an equal 50-50 contribution of all aspects, both intellectual and writing.
12. D. Hoy, E. Nikolova. “Approximately Optimal Risk-averse Routing Policies via Adaptive Discretization,” in Proceedings of the Twenty-Ninth AAAI Conference on Artificial Intelligence (AAAI-15). Austin, TX, January 25-30, 2015. **(Acceptance Rate: 27%)**  
<https://www.aaai.org/ocs/index.php/AAAI/AAAI15/paper/viewPaper/9996>
  - Co-authors: D. Hoy, CTO at Tremor Technologies.
  - Qualitative statement of contribution: I developed the initial idea and formal mathematical model and main technical question for this project. I then directed Darrell Hoy who was at the time a PhD student at Northwestern University, in developing the technical solution and writing of the paper.

**Section 2. Works published (or in equivalent status) while in current rank at other institutions (if applicable)**

**Refereed conference proceedings in rank**

1. H. Chenji, L. Smith, R. Stoleru, E. Nikolova. “Raven: Energy Aware QoS Control for DRNs,” in IEEE 9th International Conference on Wireless and Mobile Computing, Networking and Communications (WiMob), Lyon, France, October 7-9, 2013. **(Acceptance Rate: 29%)**  
<https://doi.org/10.1109/WiMOB.2013.6673400>
  - Co-authors: H. Chenji, faculty peer in the EECS department, Ohio University; L. Smith, faculty peer in Blinn College; R. Stoleru, faculty peer in the CSE department, Texas A&M University.
  - Qualitative statement of contribution: This is part of Radu Stoleru’s PhD student Chengji’s Ph.D. research; the student and Stoleru’s postdoc Smith performed the majority of the work, with my assistance as co-advising them (jointly with Stoleru) on the intellectual content and the written work, as the models built on my prior work on risk-averse shortest paths.
2. J. Y. Yu and E. Nikolova. “Sample Complexity of Risk-averse Bandit-arm Selection,” in Proceedings of the International Joint Conferences on Artificial Intelligence (IJCAI), pp. 2576-2582, Beijing, China, August 3-9, 2013. **(Acceptance Rate: 28%)**  
<http://ijcai.org/papers13/Papers/IJCAI13-379.pdf>



- Co-authors: J. Y. Yu, currently faculty peer in Concordia Institute of Information System Engineering (Canada).
  - Qualitative statement of contribution: I initiated the project idea and together with Yu (a research scientist at IBM Research at the time, which I was a visiting professor at) formalized it into several mathematical models of study. Yu and I had multiple meetings discussing the research directions and deciding on what to analyze; he developed most of the technical analysis and I contributed to the writing and revisions of the paper.
3. G. Piliouras, E. Nikolova and J. S. Shamma. “Risk Sensitivity of Price of Anarchy under Uncertainty,” in Proceedings of the 14th ACM Conference on Electronic Commerce (ACM EC), pp. 715-732, Philadelphia, Pennsylvania, June 16-20, 2013. **(Acceptance Rate: 32%)** <https://doi.org/10.1145/2482540.2482578>
    - Co-authors: G. Piliouras, faculty peer in Singapore University of Technology and Design (Singapore); J. S. Shamma, faculty peer in King Abdullah University of Science and Technology (Saudi Arabia).
    - Qualitative statement of contribution: I initiated the project with Georgios Piliouras (then postdoc, advised by Jeff Shamma at Georgia Tech), and I contributed to formalizing the problem definition, different models of risk-aversion and some of the analysis and writing.
  4. A. Botea, E. Nikolova, M. Berlingerio. “Multi-Modal Journey Planning in the Presence of Uncertainty,” in Proceedings of the International Conference on Automated Planning and Scheduling (ICAPS), pp. 20-28, Rome, Italy, June 10-14, 2013. **(Acceptance Rate: 28%)** <https://www.aaai.org/ocs/index.php/ICAPS/ICAPS13/paper/viewPaper/6023>
    - Co-authors: A. Botea, researcher at IBM (Dublin, Ireland); M. Berlingerio, research staff member at IBM (Dublin, Ireland).
    - Qualitative statement of contribution: I developed and wrote the theoretical analysis in this paper.
  5. S. Lim, C. Sommer, E. Nikolova, and D. Rus. “Practical Route Planning Under Delay Uncertainty: Stochastic Shortest Path Queries,” in RSS - Robotics: Science and Systems VIII, vol. 8(32), pp. 249-256, Sydney, Australia, July 9-13, 2012. **(Acceptance Rate: 33%)** <http://roboticsproceedings.org/rss08/p32.pdf>
    - Co-authors: S. Lim, faculty peer in Kookmin University (Korea); C. Sommer, Engineering Manager at Apple (Cupertino, CA); D. Rus, faculty peer in MIT.
    - Qualitative statement of contribution: This paper built on my prior work on stochastic shortest paths, which I and Christian Sommer extended to a query model. Rus’s PhD student Sejoon Lim, under Rus’s direction, performed experimental analysis while I assisted with the theoretical analysis and wrote the corresponding theoretical part of the paper.
  6. E. Nikolova and N. Stier-Moses. “Stochastic Selfish Routing,” in Proceedings of the Fourth Symposium on Algorithmic Game Theory (SAGT ’11), Salerno, Lecture Notes in Computer Science, Springer, Berlin, 2011. **(Acceptance Rate: 48%)** <https://doi.org/10.1007/978-3->

[642-24829-0\\_28](#)

- Co-authors: N.E. Stier-Moses, research scientist manager at Facebook (Menlo Park, CA).
- Qualitative statement of contribution: All aspects of this research were developed in equal collaboration between myself and Stier-Moses over many joint discussions. This paper was an equal 50-50 contribution of all aspects, both intellectual and writing.

**Section 3. Works published (or in equivalent status) while in previous rank(s) at UT Austin (if applicable)**

Not applicable.

**Section 4. Works published (or in equivalent status) while in previous rank(s) at other institutions (if applicable)**

**Refereed journal publications in previous rank**

1. A. Hall, E. Nikolova, and C. Papadimitriou. “Incentive-Compatible Interdomain Routing with Linear Utilities,” in Internet Mathematics, vol. 5(4), pp. 395-410, January 2008. <https://doi.org/10.1080/15427951.2008.10129169>

**Refereed conference proceedings in previous rank**

1. E. Nikolova. “Approximation Algorithms for Reliable Stochastic Combinatorial Optimization,” in Proceedings of 13th Intl. Workshop on Approximation Algorithms for Combinatorial Optimization Problems (APPROX), pp.338-351, Barcelona, Spain, September 1-3, 2010. **(Acceptance Rate: 42%)** [https://doi.org/10.1007/978-3-642-15369-3\\_26](https://doi.org/10.1007/978-3-642-15369-3_26)
2. E. Nikolova. “High-performance heuristics for optimization in stochastic traffic engineering problems,” in Proceedings of the Seventh International Conference on Large-Scale Scientific Computing (LSSC), pp.352-360, Sozopol, Bulgaria, June 4-8, 2009. [https://doi.org/10.1007/978-3-642-12535-5\\_41](https://doi.org/10.1007/978-3-642-12535-5_41)
3. E. Nikolova and D. Karger. “Route Planning under Uncertainty: the Canadian Traveler Problem,” in Proceedings of the Twenty-Third Conference on Artificial Intelligence (AAAI), pp. 969-974, Chicago, Illinois, July 13–17, 2008. **(Acceptance Rate: 24%)** <http://www.aaai.org/Papers/AAAI/2008/AAAI08-154.pdf>
4. J. Feldman, S. Muthukrishnan, E. Nikolova, M. Pal. “A Truthful Mechanism for Offline Ad Slot Scheduling,” in Proceedings of the First International Symposium on Algorithmic Game Theory (SAGT), pp. 182-193, Paderborn, Germany, April 30-May 2, 2008. [https://doi.org/10.1007/978-3-540-79309-0\\_17](https://doi.org/10.1007/978-3-540-79309-0_17)
5. Hall, E. Nikolova, and C. Papadimitriou. “Incentive-Compatible Interdomain Routing with Linear Utilities,” in Proceedings of the 3rd International Workshop on Internet and Network Economics (WINE), pp.232-244, San Diego, California, December 12-14, 2007.

- [https://doi.org/10.1007/978-3-540-77105-0\\_23](https://doi.org/10.1007/978-3-540-77105-0_23)
6. J. Kelner and E. Nikolova. “On the Hardness and Smoothed Complexity of Quasi-concave Minimization,” in Proceedings of 48th Annual IEEE Symposium on Foundations of Computer Science (FOCS), pp. 472-482, Providence, RI, October 21-23, 2007. **(Acceptance Rate: 22%)** <https://doi.org/10.1109/FOCS.2007.68>
  7. Y. Chen, L. Fortnow, E. Nikolova, and D. Pennock. “Betting on Permutations,” in Proceedings of the Eighth ACM Conference on Electronic Commerce (ACM EC), pp. 326-335, San Diego, California, June 11-15, 2007. **(Acceptance Rate: 27%)** <https://doi.org/10.1145/1250910.1250957>
  8. E. Nikolova and R. Sami. “A Strategic Model for Information Markets,” in Proceedings of the Eighth ACM Conference on Electronic Commerce (ACM EC), pp. 316-325, San Diego, California, June 11-15, 2007. **(Acceptance Rate: 27%)** <https://doi.org/10.1145/1250910.1250956>
  9. E. Nikolova, J. Kelner, M. Brand, M. Mitzenmacher. “Stochastic Shortest Paths via Quasi-convex Maximization,” in Proceedings of 2006 European Symposium of Algorithms (ESA), pp. 552-563, Zurich, Switzerland, September 11-13, 2006. **(Acceptance Rate: 24%)** [https://doi.org/10.1007/11841036\\_50](https://doi.org/10.1007/11841036_50)
  10. E. Nikolova, M. Brand, and D. Karger. “Optimal Route Planning under Uncertainty,” in Proceedings of 2006 International Conference on Automated Planning & Scheduling (ICAPS), pp. 131-140, Cumbria, UK, June 6-10, 2006. **(Acceptance Rate: 33%)** <https://www.aaai.org/Papers/ICAPS/2006/ICAPS06-014.pdf>
  11. D. Karger and E. Nikolova. “On the Expected Overpayment of VCG Mechanisms in Large Networks,” Invited paper in Conference on Decision and Control (CDC), 2006. Brief Announcement in PODC 2005, pp. 126-126, Las Vegas, NV, July 17-20, 2005. Accepted presentation to DIMACS Workshop on Computational Issues in Auction Design, October 2004. <https://doi.org/10.1145/1073814.1073836>
  12. N. Immorlica, D. Karger, E. Nikolova, and R. Sami. “First-Price Path Auctions,” in Proceedings of ACM Conference on Electronic Commerce (ACM EC), pp. 203-212, Vancouver, BC, Canada, June 5-8, 2005. **(Acceptance Rate: 28%)** <https://doi.org/10.1145/1064009.1064031>

#### **Other major publications in previous rank**

1. Y. Chen, L. Fortnow, E. Nikolova, and D. Pennock. Combinatorial betting. ACM SIGecom Exchanges, vol. 7(1), pp. 61-64, December 2007. Invited Survey. <https://doi.org/10.1145/1345037.1345053>

From: Mathematics of Operations Research

<[onbehalfof+jimdaimor@gmail.com@manuscriptcentral.com](mailto:onbehalfof+jimdaimor@gmail.com@manuscriptcentral.com)>

Date: Fri, Sep 29, 2017 at 11:51 AM

Subject: Mathematics of Operations Research - Decision on Manuscript ID MOR-2016-214.R2

To: [nstier@utdt.edu](mailto:nstier@utdt.edu)

Cc: [jimdaimor@gmail.com](mailto:jimdaimor@gmail.com), [bvonstengel@gmail.com](mailto:bvonstengel@gmail.com), [sdean@informs.org](mailto:sdean@informs.org)

29-Sep-2017

Dear Prof. Nicolas Stier-Moses:

The review process for your paper Manuscript ID MOR-2016-214.R2 titled "Risk-averse selfish routing" is now complete. I am delighted to accept your manuscript for publication in Mathematics of Operations Research. Congratulations!

You will receive a letter from the Mathematics of Operations Research editorial office with instructions for preparing your files for production.

On behalf of the editors of Mathematics of Operations Research, we look forward to your continued contributions to the journal.

Sincerely,

Jim Dai

Editor-in-Chief, Mathematics of Operations Research Professor of Operations Research, Cornell University

+1-607-255-4223

<http://pubsonline.informs.org/journal/moor>

\*\*\*\*\*

Comments to Author:

Area Editor: 1

Comments to the Author:

Many thanks for our careful revision. Happy to accept.

Associate Editor: 2

Comments to the Author:

(There are no comments.)

Reviewers' Comments to Author:

**Table 1. Research Summary**

<b>Metric</b>	<b>Value</b>
Peer-reviewed journal publications (in rank and total)	3 / 4
Peer-reviewed conference proceedings (in rank and total)	18 / 30
<b><i>Number of journal papers in rank with supervised student(s) and/or post-docs from UT as co-author(s)</i></b>	1
<b><i>Number of journal papers in rank with supervised student(s) from UT as co-author*</i></b>	0
Total citations of all publications (career) from ISI Web of Knowledge	79
<b><i>Largest number of citations for a single paper based on work at UT (ISI Web of Knowledge)</i></b>	5
h-index (career) from ISI Web of Knowledge	4
Total citations of all publications (career) from Google Scholar	923
<b><i>Largest number of citations for a single paper based on work at UT (Google Scholar)</i></b>	36
h-index (career) from Google Scholar	17
Total external research funding raised in rank	\$2,659,123

**Table 2. Current External Grants and Contracts Awarded**

<b>Role of Candidate and Co-Investigators</b>	<b>Title</b>	<b>Agency</b>	<b>Project Total</b>	<b>Candidate's Share</b>	<b>Grant Period</b>
Co-PI Le Xie (PI), Texas A&M Pravin Varaiya (Co-PI), UC Berkeley	Collaborative Research: CyberSEES: Coupon Incentive-based Risk Aware Demand Response in Smart Grid	NSF: Division of Computing and Communication Foundations	\$1,000,000	\$311,000	10/1/13-9/30/18
PI	CAREER: Algorithms for Risk Mitigation in Networks	NSF: Division of Computing and Communication Foundations	\$448,123	\$448,123	5/15/14-4/30/19
PI Michael C. Caramanis (Co-PI), Boston University	AitF: Collaborative Research: Algorithms and Mechanisms for the Distribution Grid	NSF: Division of Computing and Communication Foundations	\$800,000	\$479,985	10/1/17-9/30/21

**Table 3. External Grants and Contracts Awarded in Rank and Completed**

Role of Candidate and Co-Investigators	Title	Agency	Project Total	Candidate's Share	Grant Period
PI	ICES: Small: Risk Aversion in Algorithmic Game Theory and Mechanism Design	NSF: Division of Computing and Communication Foundations	\$370,000	\$370,000	8/1/12-8/31/17
PI	Maps Directions under Deadlines	Google Faculty Research Award	\$41,000	\$41,000	2013

**Table 4. Pending External Grants and Contracts**

Role of Candidate and Co-Investigators	Title	Agency	Project Total	Candidate's Share	Grant Period
Co-PI  PI: Georgios B. Giannakis (University of Minnesota) Co-PI: Sairaj Dhople (University of Minnesota), Mingyi Hong (University of Minnesota), Yousef Saad (University of Minnesota), Hao Zhu (UT ECE), Ross Baldick (UT ECE), Constantine Caramanis (UT ECE), Lang Tong (Cornell), David Bindel (Cornell), Eilyan Bitar (Cornell), Ari Juels (Cornell), Vassilis Kekatos (Virginia Tech), Walid Saad (Virginia Tech), Nikolas D. Sidiropoulos (University of Virginia), Zongli Lin (University of Virginia), Emiliano Dall'Anese (University of Colorado Boulder), Lucy Pao (University of Colorado Boulder)	DNS4CES: Data- and Network-driven Science for Complex Energy Systems	Department of Energy (DOE) Office of Science Program Office	\$10,000,000	\$400,000	10/1/18-9/30/22

**EXHIBIT 2**

**Committee of Counsel on Academic Freedom and Responsibility • Office of the General Faculty**  
**THE UNIVERSITY OF TEXAS AT AUSTIN**

West Mall Building 2.102  
 306 Inner Campus Drive, MS F9500 • Austin, TX 78712-1135 • (512) 471-5934 • Fax (512) 471-5984

April 28, 2019

To: President Gregory L. Fenves, University of Texas at Austin  
 From: CCAFR Subcommittee to investigate the complaint of Assistant Professor Evdokia Nikolova,  
 Department of Electrical and Computer Engineering, Cockrell School of Engineering  
 Subject: Claim of procedural violations in the consideration of Professor Nikolova for tenure and promotion

### **I. Initiation of Inquiry**

On March 29, 2019, Professor Brian L. Evans, in his capacity as Chair of the Committee of Counsel on Academic Freedom and Responsibility (hereinafter “CCAFR”) appointed the three undersigned members of CCAFR as a subcommittee (hereinafter “we”) to investigate the complaint of Dr. Evdokia Nikolova, Assistant Professor (hereinafter “Candidate”) in the Department of Electrical and Computer Engineering (hereinafter “ECE”) in the Cockrell School of Engineering (hereinafter “CSE”) that the decision in her consideration for tenure and promotion to the rank of Associate Professor was flawed by procedural errors.

### **II. Our Procedure of Inquiry**

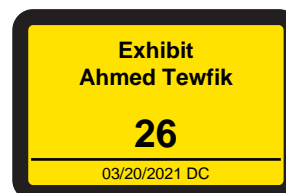
The Candidate learned on February 16, 2019 that the outcome of her tenure and promotion case was “Do Not Promote.” CCAFR’s initial contact concerning the outcome of the Candidate’s tenure and promotion case came earlier, on November 27, 2018, when the Candidate first contacted Professor Evans upon learning of the negative recommendation from the Dean of the CSE. Professor Evans communicated with the Candidate multiple times through email prior to the submission of her appeal. The Candidate sent her Appeal for CCAFR review to the CCAFR Chair on March 25, 2019.

The Provost Office gave CCAFR access to the Candidate’s promotion dossier on March 29, 2019. On that same date, the CCAFR Chair sent the Candidate’s formal request for procedural review to the CCAFR subcommittee. We met with Professor Nikolova on April 8, 2019 for about 90 minutes (see Appendix I). We then met with the Chair of the Department of Electrical and Computer Engineering, Dr. Ahmed H. Tewfik, through Zoom on April 10, 2019, for approximately 60 minutes (see Appendix II). (Dr. Tewfik was at an international conference.) Following this, we met for 60 minutes on April 17, 2019, with Dr. Sharon L. Wood, Dean of the Cockrell School of Engineering (see Appendix III). The Chair and Dean were both forthcoming and answered all of our questions fully. The Subcommittee discussed the case with the entire Committee of Counsel on Academic Freedom and Responsibility on April 24, 2019, and herein present our findings and recommendations.

### **III. Basis of the Case**

Professor Nikolova was appointed as an Assistant Professor at the University of Texas at Austin (hereinafter UT Austin) on January 1, 2014. She has served 5.5 total years at UT Austin, having previously served for 2.5 years at Texas A&M University (hereinafter TAMU). The Candidate received a Probationary Extension for pregnancy and childbirth in 2015-16. The number of years counted toward probationary status is thus 4 years, making this an “Accelerated” case.

The Candidate received a decision in February 2019 by President Fenves of “Do Not Promote,” subject to the outcome of any appeals. The outcome of “Do Not Promote” is not termination; the Candidate can apply again during her “up-or-out” year. Since she is not in her terminal year, she is not eligible for Budget Council Reconsideration. Since the outcome was not “Terminal Appointment Pending,” the Candidate does not have the option of filing Final Arguments to the President. Her remaining appeal options are to file a CCAFR appeal and/or a faculty grievance.



UT Austin\_00696



As per institutional practice, the reasons for the decision of “Do Not Promote” were not given in writing, but instead passed orally from the President’s Promotion Committee to the Dean, then from the Dean to the Department Chair, and finally from the Department Chair to the Candidate.

The core concern expressed by the Candidate is that the CSE Dean and the President’s Promotion Committee applied a higher standard because her case was Accelerated, which neither she nor her department expected. The Candidate maintains that she was highly qualified for promotion, pointing to external letters, the ECE Chair’s letter, the near unanimous departmental vote, and the unanimous college vote.

The Candidate raises the following procedural concerns:

1. **Ramifications of Prior Service at a Peer Institution and Application of a Higher Standard.** The Candidate believes that a different, higher standard was inappropriately applied by the CSE Dean and the President’s Promotion Committee because her case was considered to be Accelerated. She states that, when she was recruited, she was “unequivocally” assured by her department chair that her time in rank at her previous institution would count towards eligibility for tenure, and that she would only be “technically early.” She states that this remained her understanding throughout her tenure at UT Austin. As evidence of a different, higher standard being applied in her case, the Candidate notes that the CSE Dean’s letter states: “if this were an up-or-out case, I would likely agree with the recommendation of the Promotion and Tenure Committee.” She also notes the cases of several colleagues—Dr. Zoya Heidari, Dr. Sujay Sanghavi, Dr. Alex Dimakis, Dr. Mohit Tiwari—whom she believes were held to lower standards than she was, even in a case of early promotion.
2. **Inadequate Notice of Ability to Rescind Probationary Extension (#3 on the Candidate’s CCAFR Appeal; there is no #2).** The Candidate believes that the extension for her pregnancy and childbirth was inappropriately and punitively counted against her, because it resulted in her being considered an early case, leading to a higher standard being applied. She reports that she was encouraged by the ECE Chair to take the extension and was not notified of the possibility of rescinding it until it was past the Provost’s deadline. If the extension had been rescinded, she believes she would have been promoted, because she would have had 5 years in probationary status (with an additional .5 years in rank at UT Austin).
3. **University Policies Do Not Provide a Higher Standard for Early Promotion.** The Candidate notes that none of UT Austin’s written policies provide or support a higher standard being applied if the application is considered early or accelerated. HOP 2-2160 sets forward the standards for promotion and does not include any provision for different standards. The rule specifically provides that a faculty member may go up for tenure during any year of their probationary period before their “up-or-out” year, without any indication that a different or higher standard may be applied. Section A(3)(b) of the General Guidelines state that “Cases considered before the sixth year in rank are accelerated and must be explained.” The Candidate notes that her application for tenure before the sixth year in rank was thoroughly explained.
4. **External Letter of Support Not Placed in Tenure File.** The Candidate expresses concern that an external letter that she solicited was missing from her tenure file.
5. **Misinterpretation by Dean of Information in Dossier Regarding Research.** The Candidate expresses concern that the CSE Dean misinterpreted her research record. In her letter, the Dean expressed concern about the sustainability of the Candidate’s research, pointing to a lack of funding obtained while at UT. The Candidate rebuts that this is incorrect; she was awarded an NSF grant of approximately \$480,000 while at UT Austin (in 2017); she has not yet started using it because it runs through 2021 and she has been relying on other, prior funding. She received an NSF CAREER Award of \$448,123 in 2014, which has been paid out in 5 installments over each of 5 academic years, while she has been at UT Austin. She has also received UT Austin WNCG affiliate funding in each of the past 5 academic years, totaling \$45,000 (she inadvertently neglected to include this in her promotion materials). From the total \$1.8 million of her share of grants, she has spent \$1.2 million over the past 7.5 years. As of March 2018, she expects to have approximately 3 years of funding remaining. The Candidate reports a 100% success rate with NSF and

Google grant proposals as a lead PI, indicating that she will be able to obtain additional grants to sustain her research group.

6. **Misinterpretation by Dean of Information in Dossier Regarding Teaching.**

- a. **Misinterpretation of Trend in Quantitative Scores.** In her letter, the CSE Dean refers to a downward trend in evaluation scores. The Candidate notes that her undergraduate Instructor scores for Fall 2014, Fall 2016, and two Fall 2017 sections were 3.95, 3.92, 3.72, and 3.93, respectively. She states that this shows an overall stability in her teaching, not a downward trend. She notes that her evaluation scores for EE360C Algorithms, in which she received the 3.72 score, are above the median of 3.69 for the course.
  - b. **Pregnancy Bias Affected Student Evaluations.** The Candidate was pregnant in Fall 2017 when she received her lowest teaching score of 3.72. She believes she was subject to pregnancy bias, and points to evidence showing that female faculty tend to receive lower scores while pregnant (J. Lawrence, *Academe*, May-June 2018). She also points to research showing gender bias in teaching evaluations against junior women teaching mathematical courses (Mengel *et. al.*, *J of the European Economic Assoc.*, 10 Feb 2018).
  - c. **Misinterpretation of Teaching Statement.** The Candidate claims that the CSE Dean's assessment regarding her use of teaching assistants to create and grade homework does not reflect her teaching record or the whole of her teaching statement. In response to the Dean's statement that she was inattentive to student responses to her teaching, the Candidate points out that she has continued to look for ways to address teaching challenges, as noted in her teaching statement and departmental assessment. She also provides additional information on her supervision of teaching assistants, and refers to seeking advice from her award-winning colleague Professor Christine Julien on her use of teaching assistants.
  - d. **Omission of Information from the Dean's Assessment.** The Candidate states that the Dean's assessment of her teaching is selective, neglecting positive aspects of student and faculty evaluations of her teaching. She points to strong assessments of her teaching by students, peers, faculty on the departmental Budget Committee, and the ECE Chair.
7. **Omission of Teaching Scores from Previous Institution in the Dossier.** The Candidate expresses concern that her teaching evaluations from TAMU were not included in her dossier. This surprised her because she had been told by the department Chair that they would be requested from TAMU.
8. **Misinterpretation by Dean of Information in Dossier Regarding Service.** The Dean's assessment states that the ECE Budget Council expressed concern about "relatively weak engagement in the department." The Candidate states that the Budget Council makes no such statement, and points instead to the statement that her service is "significantly above the level of an assistant professor." The Dean's comment is apparently based on the Chair's letter of support, referring to comments by certain faculty members about "below average" engagement in the department. The Candidate explains these perceptions as related to her pregnancy and childbirth as well as a semester in residence at the Simons Institute at the University of California, Berkeley. She quotes the Chair as saying that "this is not a concern as it's mainly due to her personal circumstances at the stage of her life."
9. **Denial of Tenure Raises Concerns Related to Gender and Pregnancy.** The Candidate states that the denial of tenure raises questions about whether women, and particularly women who become pregnant and give birth, are treated consistently with the goals of gender equality, diversity, and inclusion. Of the 53 tenured faculty members within ECE, 49 (92.5%) are men, and only 4 are women. This is below the national average. During her tenure in the department, 7 male assistant professors have gone up for tenure and promotion, and all were approved. Three female assistant professors, including herself, have gone up during the same five-year period, and all have been denied. The Candidate states that she has the longest

time in rank as Assistant Professor (including time at TAMU) of any faculty member considered for tenure or promotion within the department.

The Candidate makes the following requests for relief. Regarding her own case, she (a) requests that the decision not to promote be reversed. She maintains that she should not be held to a higher standard than her colleagues, as this results in inequality of treatment and advancement. She states that reconsideration next year or in two years is not an appropriate remedy. Regarding general processes, the Candidate makes the following requests: (b) She requests a change in procedures such that a candidate with a “Do Not Promote” decision be allowed to submit final arguments to the President. (c) The Candidate requests that the Cockrell School create an Engineering faculty handbook similar to that for the College of Natural Sciences. (d) The Candidate requests that written notice be sent to current and potential faculty regarding how the tenure clock is applied and what standards will hold for faculty with previous experience at other institutions. (e) The Candidate requests that written notice be sent to affected faculty regarding extensions for childbirth informing them that early promotion cases are held to a higher standard and that rescinding the extension must be done by a date prior to the submission of the tenure packet; she further requests that the deadline be pushed forward so that faculty can more readily rescind the extension.

#### IV. Facts and Findings

In the deliberations about her promotion case, the Candidate received a near unanimous vote in favor of promotion from her Department (32-1-2) and a unanimous vote from the CSE Tenure and Promotion Committee (7-0-0). The Department Chair supported the Candidate’s promotion case, as evidenced by the promotion dossier cover sheet and by his letter in the promotion dossier. The Dean’s decision, in contrast, was “Do Not Promote”. The President’s decision, after consultation with the other members of the President’s Promotion Committee (Provost Maurie McInnis, Dean of Undergraduate Studies Brent Iverson, Dean of Graduate Studies Mark Smith, and Vice President of Research Daniel Jaffe) was “Do Not Promote.” A letter to the candidate from Dean Wood, dated February 15, 2019 and included in the Appeal, gives two reasons for this decision: “the sustainability of your research funding” and “your commitment to the teaching mission of the Cockrell School.” A subsequent email from the ECE Chair, included in the Appeal, states that the Dean advises “waiting for at least one more year to take care of the research sustainability issue and improve teaching scores,” and to “establish collaborations” with other UT researchers.

Below, we give our findings for each numbered claim in Section III, based on our review of the documentary evidence; interviews with the Candidate, the ECE Chair, and the CSE Dean; and consultation with the Committee of Counsel on Academic Freedom and Responsibility.

1. **Ramifications of Prior Service at a Peer Institution and Application of a Higher Standard.** The Subcommittee is troubled by Dean Wood’s statement that “if this were an up or out case, I would likely agree with the recommendation of the Promotion and Tenure Committee.” This implies that the Dean is indeed applying higher standards in this case. In our view, different standards are not justified in this case, if ever, since this is not an early case if all of Dr. Nikolova’s 7 years in rank as Assistant Professor are taken into account (including her 2.5 years at TAMU and excluding 1 year for which she was granted a Probationary Extension; without the extension she would have 8 years in rank). When asked, Dean Wood confirmed that the engineering program at TAMU should be recognized as a peer program. Additionally, Dr. Nikolova was led to believe that, upon taking a position at UT Austin, the years in rank at TAMU would count towards promotion. The ECE Chair confirmed that this was the department’s assumption as well, and that her case was only “technically early” (that is, on time if prior time in rank is considered).

The Subcommittee notes that the 2018-19 General Guidelines for Promotion and Tenure of All Faculty Ranks Excluding the Medical School (hereinafter “Promotion Guidelines”) do not specify a minimum probationary period but do define a maximum probationary period. Section A.3.b of the Promotion Guidelines indicate that the “up-or-out” year is the sixth year of the tenure probationary period. Also, according to Section A.3.b, “Cases considered before the sixth year in rank are accelerated and must be explained in the department chair’s and dean’s statements.” The Department Chair’s letter clearly explains why the Candidate’s case was being accelerated: “If promoted to associate professor in September of 2019, she will have served as an assistant professor at the University of Texas at Austin for five years. This is therefore technically an early promotion case—particularly because she has received an extension of her

probationary period. However, she began her academic career at Texas A&M University as an assistant professor in August 2011. Her case would not be early if these two years of service are considered. I also note that when we recruited her, Evdokia requested to be considered for promotion at UT around the time that she would have been eligible for promotion at Texas A&M University.”

2. **Inadequate Notice of Ability to Rescind Probationary Extension.** The Subcommittee disagrees with the Candidate’s statement that she was not notified of the possibility of rescinding the extension. We requested and received from the Provost’s office a copy of the letter approving the extension dated November 11, 2015, which was signed by the candidate on August 8, 2016. That said, we are concerned that the Candidate was not advised that the deadline could be extended, as we learned could be done. Furthermore, the Candidate had no reason to assume that rescinding the extension was important, because she did not know that her case would be considered early and subject to higher standards due to the extension. To avoid such confusion, we recommend that the implications of an extension be explained in writing to all candidates and to administrators at all levels, and included in The Handbook of Operating Procedures (HOP) 2-2020 Extension of the Tenure Track Probationary Period, which concerns extensions to the tenure probationary period due to personal circumstances.
3. **University Policies Do Not Provide a Higher Standard for Early Promotion.** The Candidate is correct that UT Austin’s written policies do not support a higher standard being applied for early promotion. Neither do AAUP guidelines. According to Gregory Scholtz, the Director of the Department of Academic Freedom, Tenure, and Governance at AAUP, “The Faculty has ‘primary responsibility’ for matters of faculty status, which would include setting standards for promotion, including early promotion” (see Appendix V). The Faculty has not considered or approved higher standards for accelerated or early promotion. Therefore, the President and/or the President’s Committee has unilaterally changed tenure and promotion standards without faculty discussion. This is a matter of serious concern.
4. **External Letter of Support Not Placed in Tenure File.** According to the ECE Chair, one external letter was received after the dossier left the college, and therefore was not considered in department or college assessments of the case. We raised this issue with the CSE Dean, and she said that the letter was solicited by the Candidate and arrived after the file had been considered and sent forward by the College. It should have been added to the file by the Provost’s Office. She also noted that it is not an “arm’s length” letter, so its absence is not likely to have adversely affected the case.
5. **Misinterpretation by Dean of Information in Dossier Regarding Research.** We are puzzled by the Dean’s concerns about the sustainability of the Candidate’s research program. The positive votes of the departmental Budget Council, the Chair, and the School’s Advisory Committee reflect satisfaction with the Candidate’s research record. Furthermore, the information presented by the candidate speaks to ongoing external support for her research. The Candidate stated, and we agree, that the continuation of the NSF Career Grant while she was at UT Austin should be considered as support for her research group. She has also received additional grants while at UT Austin, including an NSF grant for approximately \$480,000. In speaking with the Candidate we learned that she didn’t feel it was necessary to immediately apply for additional grants because she had not spent all the funding in hand. If the Cockrell School has expectations to the contrary, they appear not to have been communicated to the Candidate.
6. **Misinterpretation by Dean of Information in Dossier Regarding Teaching.** The Subcommittee is puzzled by disparate assessments of the Candidate’s teaching. While the Dean was critical of the Candidate’s teaching in her assessment and told the committee that her recommendation of “Do Not Promote” was largely motivated by a desire to see the Candidate improve her teaching, highly respected members of the department’s Budget Council state that the Candidate’s “teaching record clearly exceeds the expectations for teaching by an Assistant Professor in the Department.”
  - a. **Misinterpretation of Trend in Quantitative Scores.** While at UT the Candidate has taught 3 courses: EE 360C Algorithms (undergraduate), EE 381 V Game Theory (graduate), and EE 381 V Advanced Algorithms (graduate). The downward trend in undergraduate Instructor scores that the Dean notes is not clear to the Subcommittee, given that out of four sections, there is one outlier (3.72) in the Instructor rating, while the other three Instructor ratings are quite consistent (between

3.92 and 3.95). (Course ratings range between 3.3 and 3.7.) The Dean does not address the Candidate's graduate scores of 4.1 (instructor) and 4.1 (course) for Game Theory, or the ratings of 4.1 and 3.8, respectively, for Advanced Algorithms. These ratings are also fairly consistent.

- b. **Pregnancy Bias Affected Student Evaluations.** The Subcommittee has no finding on this claim. During Fall 2017, the semester in which the Candidate was pregnant, she taught two sections of the same course. One section was rated 3.93, consistent with her other scores, and the other section was rated 3.72. It is not possible for the Subcommittee to determine whether the lower score is attributable to pregnancy bias among students in that section. We consider this point moot since, as noted above, the 3.72 score is an outlier and should not be taken as establishing a trend.
  - c. **Misinterpretation of Teaching Statement.** The Subcommittee disagrees with the Candidate on this point. There appears to be evidence for the Dean's concern about the Candidate's use of teaching assistants to create assignments in the Candidate's "Comments about Student Evaluations" in her teaching statement, where she points to TA responsibilities such as "creating and grading homework and programming assignments."
  - d. **Omission of Information from the Dean's Assessment.** The Subcommittee agrees that the Dean's assessment does not point out the positive aspects of the Candidate's teaching as reflected in student and peer evaluations. The Assessment on Teaching Performance of the Candidate states that she "takes her teaching obligation seriously and has strived to improve her teaching effectiveness while addressing the needs of the department and its students." This would seem to contradict the Dean's judgment that the Candidate does not take responsibility for improving her teaching. The Assessment also states that the Candidate "values teaching at all levels," and "has a history of meaningfully weaving research exposure and experience into the classroom even in undergraduate courses." Regarding teaching innovations, the Assessment notes that the Candidate has taught two new undergraduate courses; filled a gap in formal algorithm instruction; put her own stamp on a high-demand undergraduate course while collaborating with her colleagues to improve the course; and introduced lunches with the professors (in a team-taught course) in order to give undergraduates access to informal mentoring. The Candidate provides a summary of negative vs. positive student comments on Course-Instructor surveys, and 53 out of 78 written comments are positive.
7. **Omission of Teaching Scores from Previous Institution in the Dossier.** The omission of teaching evaluations from TAMU is unfortunate. The Subcommittee discussed this omission with the Chair, who pointed out that the Candidate had the opportunity to review the file before it was submitted. The Subcommittee believes that it is primarily the responsibility of the department, not the Candidate, to ensure that the dossier is complete.
  8. **Misinterpretation by Dean of Information in Dossier Regarding Service.** We agree with the Candidate on this point. We could find no evidence that the Budget Council made a statement regarding "relatively weak" engagement in the department. We do, however, see in the Chair's discussion of this issue his assessment that this is not a concern because of the Candidate's personal circumstances. We would note that a faculty member with a Probationary Extension due to pregnancy and childbirth could be expected to be less engaged in the department during that time period.
  9. **Denial of Tenure Raises Concerns Related to Gender and Pregnancy.** The Subcommittee is concerned about the statistics regarding gender equity, diversity, and inclusion presented by the Candidate. We feel that any department or School with such a track record should also be concerned. We strongly recommend that the ECE department work with Vice Provost Gordon to conduct a substantial review of gender equity, diversity, and inclusion in the department. That could include a review of the comparative materials compiled by the Candidate, which were not possible for the Subcommittee to consider thoroughly in the time available for our review.



## V. Summary

The Subcommittee concludes that the decision not to promote the Candidate to the rank of Associate Professor with tenure was flawed by procedural errors, particularly with respect to claims #1, #3, #7, and #8.

Concerning Claim #1 regarding Ramifications of Prior Service at a Peer Institution and Application of a Higher Standard, the Subcommittee finds a procedural violation. The Candidate's service at TAMU was ignored in calculating her years in rank, and she was held to a higher standard than if she had been in an up-or-out year. This calculus is contrary to what she was told when she was hired, and what the department expected in considering her case. Concerning Claim #2 regarding Inadequate Notice of Ability to Rescind Probationary Extension, we do not find a procedural violation, but we are concerned that the Candidate was not notified in a timely matter that not rescinding her probationary extension would adversely affect her case; nor was she told that she could file a request to rescind the extension after the deadline.

Concerning Claim #3, University Policies Do Not Provide a Higher Standard for Early Promotion, we find a procedural violation because the written policy does not provide for a higher standard for early promotion. Concerning Claim #4, External Letter of Support Not Placed in Tenure File, we find a minor procedural error, i.e., one not likely to have adversely affected the case. Concerning Claim #5 on Misinterpretation by Dean of Information in Dossier Regarding Research, we do not find a procedural violation, but we do find inconsistent standards applied at the departmental and School level. Concerning Claim #6, Misinterpretation by Dean of Information in Dossier Regarding Teaching, the Subcommittee does not find a procedural violation, but does find disparate standards applied at the departmental and School levels, selective use of information, and an inappropriate use of one course to establish a trend.

Concerning Claim #7, Omission of Teaching Scores from Previous Institution in the Dossier, the Subcommittee finds a procedural error, one that may have negatively impacted the evaluation of the Candidate's teaching record. Concerning Claim #8, Misinterpretation by Dean of Information in Dossier Regarding Service, we find a procedural error in the Budget Council's assessment being incorrectly quoted. Concerning Claim #9, Denial of Tenure Raises Concerns Related to Gender and Pregnancy, the committee does not find a procedural violation, but believes a review of the climate with respect to gender and inclusion in the ECE Department is warranted.

## VI. Recommendations

The Candidate makes several requests. With regard to her own case, Dr. Nikolova requests that the decision not to promote be reversed. She says that consideration next year or in two years is an inappropriate remedy. She believes that she should not be held to a higher standard than her colleagues, and that such an action constitutes inequality in treatment and advancement. She points to the Dean's assessment this year as recognizing that she meets the normal standards for promotion, and she asks to be promoted accordingly. With respect to general processes, Dr. Nikolova requests (a) a change in procedures such that a candidate with a "Do Not Promote" decision be allowed to submit final arguments to the President; (b) the creation of an Engineering faculty handbook similar to that for the College of Natural Sciences; (c) that current and potential faculty be informed of how the tenure clock is applied and what standards will hold for faculty with experience at previous institutions; (d) that faculty considering extensions for pregnancy and childbirth be given notice that early promotion cases are held to a higher standard and that rescinding the extension must be done by a date prior to the submission of the tenure packet; she further requests that the deadline for rescinding the extension be pushed forward.

The Subcommittee wishes to express its serious concern over the ramifications of the decision in this case for both the Candidate and the University. The Candidate and the Department proceeded with the usual practice and understanding that service at TAMU would be counted in the promotion and tenure process, only to find out differently very late in the process. This practice had negative impact on the Candidate's career, and could have

negative impact on the department's ability to address its serious gender imbalance. More broadly, we are concerned about the University's ability to recruit the best, most experienced assistant professors, given that the University is refusing to recognize prior service at peer institutions by considering cases such as this one "early" and then applying a higher standard. We are also concerned over the general implications for diversity and inclusion of such practices, especially given that candidates who diversify their fields are in high demand. For these reasons, we recommend that serious consideration be given to the reversal of this decision.

Regarding the Candidate's more general requests we recommend the following:

- (a) Regarding the request that a candidate receiving a "Do Not Promote" decision should be able to submit final arguments to the President: This is a request that should be concerned through the faculty governance process. Furthermore, the Subcommittee is concerned that candidates receiving a "Do Not Promote" decision are not directly told the basis for the committee's decision. A Candidate who will be considered again in an up-or-out year deserves to know what concerns the President's Committee has. At present the candidate learns about the discussions in the President's Committee only through a oral communication chain that goes from the Committee to the Dean to the Chair to the Candidate. Ambiguity, misinformation, and gaps in information are likely consequences of such a chain of communication.
- (b) Given the numerous communication difficulties apparent in this case, an annually updated Engineering faculty handbook would seem to be useful. Dean Wood told us that she informs the Chairs every year of changes in Promotion and Tenure procedures; for the sake of transparency it would be good for faculty as a whole to have direct access to that information in writing.
- (c) The University's policy regarding experience at previous institutions needs to be addressed, and in writing. For the sake of the University's ability to attract and retain excellent faculty, we recommend that the University's policy in this regard should more closely adhere to and follow the standards of AAUP, which mandate that up to four years of prior service at a peer institution be counted.
- (d) It is important that the University clarify the ramifications of requesting an extension and rescinding an extension, lest a policy intended to help faculty experiencing pregnancy, childbirth, and other personal issues cause harm instead. These ramifications should be spelled out at the same time as policies are clarified regarding service at previous institutions and the standards applied to early and "technically early" cases.

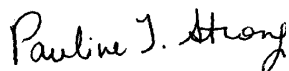
As was discussed in a previous CCAFR report (re: Professor Blake R. Atwood, 2018), changes in policies regarding "early" and "technically early" promotions must be better communicated and more consistently applied so that individual faculty are not caught between differing interpretations and expectations. This is especially important for faculty who have experience at a prior institution and faculty who request an extension for personal reasons. Neither of these common faculty experiences should cause faculty to be held to higher standards than their peers, as happens when they are told that they have met the criteria for promotion but must wait because they are "early."

Respectfully submitted,

Professor Martha Hilley (Subcommittee Chair)  
Department of Music, College of Fine Arts



Professor Deborah Parra-Medina  
Department of Mexican American and Latino/a Studies, College of Liberal Arts



Professor Pauline Turner Strong  
Department of Anthropology, College of Liberal Arts



Cc:

Assistant Professor Evdokia Nikolova

ECE Chair Ahmed Tewfik

CSE Dean Sharon Wood

Provost Maurie McInnis

Senior Vice Provost Janet Dukerich

Assistant Vice President for Faculty Affairs Carmen Shockley

Ombudsperson Dr. Mary Steinhardt

Faculty Council Executive Assistant Debbie Roberts

CCAFR Chair Brian L. Evans

APPENDIX I

Notes on CCAFR Interview with Assistant Professor Evdokia Nikolova on April 8, 2019

Present at the interview:

Evdokia Nikolova, Assistant Professor, Department of Electrical and Computer Engineering, Cockrell School of Engineering  
Martha Hilley (Subcommittee Chair), Professor of Group Piano and Pedagogy, Butler School of Music, College of Fine Arts  
Deborah Parra-Medina, Professor of Mexican American and Latina/o Studies, College of Liberal Arts  
Pauline Turner Strong, Professor of Anthropology, College of Liberal Arts

[This interview was taped using a faulty program, and these notes are based on a garbled transcript. The interview did not add information to the extensive written file, but it did convey to the Subcommittee the Candidate's strong sense of being subject to unfair and inconsistent standards.]

MH: What are the high points of the case for the committee to consider?

--EN: I feel like I fell victim to an unstated policy.

MH: You draw comparisons between yourself and another faculty member in your department with a similar experience with transferring time on the tenure clock.

--EN: That professor went up last year, but wasn't in my department. There were multiple cases—I gave cases from the last 5 years in my situation.

DPM: Your main concern is that the criteria are not outlined anywhere in writing?

--EN: I have searched the guidelines. I was surprised to find that there aren't any guidelines specific to engineering. My main issue is that I've been given mixed messages [about transferring time from her previous institution]. And there is the additional issue of .5 years not counting, so that I'm an additional year early. The policies really need to be clarified.

DPM: Do you happen to have the summary sheet in the file that has the votes, and it lists 5.5 years in rank since 2014? The whole issue for you is how they count in rank, correct?

--EN: Yes. It's confusing that they list 5.5 years in rank on this sheet but only count 4 because of the Probationary Extension and then they round down the .5 semester.

MH: You don't have the first year counted in your clock because you didn't start until January, correct?

--EN: This was not my choice. They said they wanted to be professional and nice [to Texas A&M] when they hired me. They didn't tell me how starting in January would impact my tenure clock. They said that I could go up for tenure when I'm ready, and that the expectation is that I would produce what should be produced during my time at UT.

PTS: Regarding funding you make the case that you still have money coming in from grants.

--EN: Yes, that's true, and I've received funding while at UT as well.

MH: Regarding teaching, you say that you think the Dean found a couple of low scores that she considered as showing a downward trend.

--EN: Yes, the factual information to support this trend is not there. And it should be considered that my undergraduate scores are for large classes—a core requirement class that people don't want to take.

PTS: Let me summarize the main points you've made and see if I have them correctly. You think that the Dean is applying different standards to you than to other assistant professors in your department—that there are no significant differences between you and the other cases that were approved. You think that new standards are in place and that you are a victim of that. You had a verbal commitment that your time at Texas A&M would be

considered, and that is not being honored. And you didn't realize that you would be held to a new standard until you had already filed for promotion. Is this correct?

--EN: Yes. If you are going to reset everyone's clock when they come to UT, that's not right. I also am a woman in a male-dominate field, and am concerned that pregnancy discrimination is involved.

## APPENDIX II

Notes on CCAFR Interview with ECE Chair Ahmed H. Tewfik on April 10, 2019

Present at the interview:

Ahmed H. Tewfik, chair, Department of Electrical and Computer Engineering, Cockrell School of Engineering (by Zoom)

Martha Hilley (Subcommittee Chair), Professor of Group Piano and Pedagogy, Butler School of Music, College of Fine Arts

Deborah Parra-Medina, Professor of Mexican American and Latina/o Studies, College of Liberal Arts

Pauline Turner Strong, Professor of Anthropology, College of Liberal Arts

Regarding early promotion

- In the Chair's view, there are 2 types of early promotion
  - inside, less than 5 years, acknowledged in letter
  - outside, people consider it lower risk hiring, can go up when you would have if you started at UT, letter will acknowledge this ("technically early promotion"). This has been done in past. Beyond department it may be considered early, but not within the department. We will need to speak to the Dean.

Regarding the Dean's decision

- The letter from the Dean was a surprise to everyone. The department expected things to be the same this year as in the past. In October (when the case had left the College), he began getting questions about justifying early promotion. He was left with impression that the "technically" was disregarded.
- The Dean's sentence about "if this were an up or out year" is unfortunate. It suggests that different standards were applied, which was not the case. This sends the wrong message to faculty in general and disturbed the Budget Council because of its implications for recruiting. He thinks it may have been motivated by a desire to ensure that the Presidential committee gives the Candidate another chance, given their current dislike for early cases.

Regarding the process

- When he met with the Dean and Associate Dean in the Spring, the issue came up. They didn't spend much time on case then. Main concern then was number of publications. Since then she had 2 additions to her publication/selective conference record, so concern was addressed.
- He shared with the Candidate the concern raised by the Dean about this being treated as an up or out case at the Presidential level; he said he didn't want to lose her but that it was her decision; she decided to go forward; chairs had heard that the Presidential committee doesn't want people to test the water, so she might be at risk of being terminated

Regarding the extension

- He always advises faculty to take a 1-year extension when eligible, as they can always rescind. In past, the Provost has asked for the Candidate to rescind before the case goes forward. In this case he doesn't recall getting such a request.

Regarding other assistant to associate cases

- Previous candidates were well above the bar. This case was closer to the bar. There were several issues, some referenced by the Dean: (1) Not many courses in the teaching record at UT, thus not enough data points to establish trends. Student comments were inconsistent; at both the graduate and undergraduate level, some found the Candidate's teaching exceptional, others found her inattentive to teaching. (2) There was a slow-down in research and publication, a concern raised previously and in the 3rd year review (completed in the same year as the submission of the dossier). Later work doesn't have the same visibility or importance as earlier work. (3) The use of teaching assistants didn't come up in the department.
- He is not familiar with case of Dr. Heidari beyond what the Candidate shared with him before submitting her response. He had a discussion with her when the case "went south"; she didn't want to meet with dean; he explained how teaching and research had been perceived, and advised her to find a

case of someone promoted with a similar profile under the current administration; it seems the cases are comparable

Regarding teaching evaluations from Texas A&M

- The department usually includes teaching at previous institutions, but not much weight is applied. There is no reason they weren't included in this case; the candidate had access to the dossier and it was her responsibility to make sure it was complete. She worked with a staff member and there were concerns she wasn't paying enough attention to the dossier. Everyone in the department gets the same instructions and support.

Regarding the missing external letter

- The Candidate was aware of which letters came back. The missing letter was not requested by the department; it was requested in November when the Dean said she was not supporting the case; the Dean said she could withdraw the case at that point so that she wouldn't risk being terminated; he spoke to the Candidate about this and advised her to get a copy of the Dean's letter, she did, and wrote the response included in the dossier; on her own she asked for an additional letter from TAMU; this was not an official request from the department.

Is there anything else the Subcommittee should know?

- No.

### APPENDIX III

#### Notes on CCAFR Interview with CSE Dean Sharon L. Wood

Present at the interview:

Sharon L. Wood, Dean, Cockrell School of Engineering

Martha Hilley (Subcommittee Chair), Professor of Group Piano and Pedagogy, Butler School of Music, College of Fine Arts

Deborah Parra-Medina, Professor of Mexican American and Latina/o Studies, College of Liberal Arts

Pauline Turner Strong, Professor of Anthropology, College of Liberal Arts

Regarding service in rank

- The Dean was unaware of AAU guidelines regarding previous institutions
- In Cockrell School, common for assistant professors to spend full time in rank at UT, regardless of previous time
- Administration waffles on how years at previous institution are handled; it is not clear; they re-set clock for everyone; you can use entire time, but don't have to; prestige of prior school matters
- Texas A&M is good in Engineering, considered a peer institution

Regarding recruitment (the Candidate having been told Texas A&M years would count)

- There was nothing in writing
- She was not Dean at the time, but when she speaks with candidates she tells them she can't guarantee that time at previous institution will be counted; 2 years at Ut is shortest time to establish teaching record, but otherwise it depends on the vote of the budget council

Regarding "early" vs. "technically early"

- The Cockrell School looks at the entire body of work, including previous institution
- She agrees that his was technically early
- Eddie was not up or out—if so, research would be the highest priority
- The Dean had serious concerns about her teaching statement; she has seen many teaching statements and hers was a real outlier.

Regarding the basis of the Dean's assessment

- Budget council was focused on metrics; she considers the teaching statement very important. The University requires a reflective teaching statement, indicating a change in teaching in response to student comments; the Candidate didn't address those questions
- She saw indications of not taking teaching seriously. She saw this as a chance to let the Candidate know that teaching is important and changes needed to be made
- She hadn't changed her teaching according to student comments; other people did the opposite. She went for advice to another assistant professor, not to the best teacher in the department.
- She didn't provide context about what affected her teaching, such as her pregnancy.
- Student comments didn't improve over time.
- She was also a little concerned about the research statement; the Candidate hadn't engaged with other people with similar expertise here at UT. She is not taking full advantage of other faculty. Collaboration is really important in the Cockrell School.

Regarding the sustainability of the Candidate's research

- According to the workload policy (adopted in each department): Tenured faculty should support 2 RAs on external grants, plus summer salary. The Candidate wasn't bringing in enough, if divided by years.
- Assistant profs are exempt from this requirement; they get start-up funds.
- The Candidate had been moving in the right direction, the she took a leave at Berkeley. Productivity was not as strong afterwards. She didn't continue on the same trajectory.

Regarding rescinding the Candidate's extension

- She was disappointed that the Candidate didn't rescind. Provost's office has made it clear that it's necessary. By that time it was past the date. Then she would have been one year early instead of two; committee has been saying the earlier, the higher the expectations. Guidelines say early promotion "must

be justified,” but not defined. Provost’s office is waffling on whether higher standard applies to technically early.

- In other cases, Dept chairs have encouraged candidates to rescind.
- If she rescinds now she could go up next year.

Regarding the tenure and promotion process

- There are written guidelines from School says what is expected; the Dean revises these every year.
- At a meeting before the budget council voted to send the case forward, she had a conversation with the Chair and called the case borderline.
- In November, she contacted the Chair to say she was not in support in order to give the Candidate the opportunity to withdraw. The Candidate chose to go forward and file supplemental documents, and requested more letters, which were sent directly to the Provost’s Office. These were not at arm’s length assessments.
- The Candidate refused to meet with her after denial; she is the only person who has never met with her in this circumstance

Regarding comparative cases

- She conducts holistic review, not primarily based on metric; decision depends on statements also.

Is there anything else the Subcommittee should know?

- No.



APPENDIX IV

Email correspondence between Prof. Brian L. Evans and  
Gregory Scholtz, Director, Department of Academic Freedom, Tenure, and Governance, American Association of  
University Professors

April 21-23, 2019

From: Greg Scholtz <gscholtz@aaup.org>  
Sent: Tuesday, April 23, 2019 11:03 AM  
To: Evans, Brian L  
Subject: UT Austin - Brian Evans - Early promotion cases being held to a higher standard at UT Austin

Dear Brian,

Good to hear from you.

With respect to your questions,

1. The AAUP has no policies on early promotion of which any of us are aware. The quotation from Colleen Flaherty's IHE article that you quote is correct through the word "appointment." The source is Regulation 2b of the attached Recommended Institutional Regulations on Academic Freedom and Tenure, which, as you will see, says nothing about applying early for promotion or tenure. What also should be stressed is that, under AAUP-recommended standards of academic governance (particularly as set out in the fifth section of the attached Statement on Government of Colleges and Universities), the faculty has "primary responsibility" for matters of faculty status, which would include setting standards for promotion, including early promotion.

So I think the key issue in this situation, from an AAUP perspective, is the extent to which the faculty has had a role in formulating the early promotion standard.

2. As to legal cases, as the AAUP's defense of academic freedom, tenure, due process, and shared governance is based on academic standards (forming a kind of academic "common law"), not on state or federal laws, this department never applies legal standards to the situations that we handle.

Best regards,

Greg

\*\*\*\*\*

Gregory F. Scholtz, Director  
Department of Academic Freedom, Tenure, and Governance  
American Association of University Professors  
1133 Nineteenth Street, N.W., Suite 200  
Washington, DC 20036-3655  
202.737.5900 (phone)  
202.737.5526 (fax)

From: Evans, Brian L [mailto:bevans@ece.utexas.edu]  
Sent: Sunday, April 21, 2019 9:52 AM  
To: Greg Scholtz <gscholtz@aaup.org>  
Cc: Evans, Brian L <bevans@ece.utexas.edu>  
Subject: Early promotion cases being held to a higher standard at UT Austin

Dear Greg,

The UT Austin administration is holding candidates for promotion to a much higher standard if they apply early. The UT Austin administration refers to these cases as "accelerated".

Would you be able to point me to

AAUP policies on the evaluation of early promotion cases, esp. as related to the standard applied for early vs. non-early promotion cases

Legal cases concerning evaluation standards for early vs. non-early promotion cases

At UT Austin, early promotion cases are being held to a much higher standard than those applying in the usual period of time in the same academic year. This unequal standard shows up in Deans' letters (at end of message), in public statements by the President's promotion committee (at the end of message), and reasons conveyed orally by the President to the Deans in denying early promotion cases.

This morning, while searching online, I found

"(AAUP maintains that tenure candidates should be judged by the criteria and standards articulated at the time of appointment, and can choose to apply for tenure early if they've met those standards -- not that candidates be judged by heightened standards if applying early.)"

<https://www.insidehighered.com/news/2013/07/24/colorado-aaup-caucus-adopts-statement-against-changing-tenure-criteria-midstream>

From the 2017-2018 Annual Report from the Committee of Counsel on Academic Freedom and Responsibility (CCAFR) at UT Austin:

"During its investigation, the CCAFR subcommittee collected views by the upper administration towards early promotion expressed in public forums, in the hope that the views might be helpful to those who are considering early promotion to Associate Professor or Professor:

Dean Iverson said that the earlier a promotion case is, the more incumbent it is for the academic unit to explain why. He also said that it important not to have an academic unit make a habit of putting people up early. [President's Promotion Committee, Panel Discussion, April 9, 2018]

Dean Smith said that when too many people go up early, it could become the 'new normal'. [President's Promotion Committee, Panel Discussion, April 9, 2018]

Senior Vice Provost of Faculty Affairs Janet Dukerich said that over the years, UT Austin had become too accommodating of early promotions, according to Dean Diehl who was in attendance. Now, to be considered early, according to Prof. Dukerich, the applicant must have an unusually strong record. She said that the record would need to be two standard deviations above the usual successful case for the normal duration in rank from Assistant Professor to Associate Professor or from Associate Professor to Professor. [Provost Office 'Road Show', April 11, 2018]

Dean Brent L. Iverson and Dean Mark J. T. Smith are two of the five members of the President's Promotion Committee. Senior Vice Provost Janet M. Dukerich coordinates faculty affairs across the university, including promotion processes and procedures."

Here's a quote from a Dean's letter in this 2018-2019 promotion cycle:

"If this were an up-or-out case, I would likely agree with the recommendation of the Promotion and Tenure committee. However, Dr. [DELETED] is being considered for promotion at UT Austin two years early. I do not believe that she has taken responsibility for improving her teaching, and I have concerns about the sustainability of her research program...."

In this particular case, the College P&T Committee voted 7 in favor, 0 against, and 0 abstain to recommend in favor of the faculty member for tenure and promotion.

Much Thanks,  
Brian

Brian L. Evans, PhD, IEEE Fellow | Pronouns: He/His  
Engineering Foundation Professor, UT Austin  
Chair, Academic Freedom Committee, UT Austin  
Chair-Elect, Faculty Council, UT Austin

Member, American Association of University Professors  
Member, Texas State Employees Union, CWA #6186

**EXHIBIT 3**

## Message

**From:** Evdokia Nikolova [eddie.nikolova@gmail.com]  
**Sent:** 3/22/2019 9:29:28 PM  
**To:** Tewfik, Ahmed H [tewfik@austin.utexas.edu]  
**Subject:** comparison with Zoya Heidari from Petroleum Engineering  
**Attachments:** Nikolova-Dean Statement\_highlighted.pdf; Heidari, Zoya\_Redacted.pdf

Hi Ahmed,

I am working on my letter to the President, and my letter to the CCAFR committee both due this Monday March 25. I just received this information last night on Zoya Heidari from Petroleum Engineering who was promoted to associate with tenure last year after 4 years at A&M and just 2 years at UT. (See attached Dean's assessment for Zoya and for me in comparison). The below is not going to be in the letter in this form, this is just personal bullet points that I wrote.

Regarding the below "commitment" to Zoya that the Dean references to consider her tenure case at UT in a timely manner, I am including the following statement (maybe not in this exact final language):

"The reassurance to Zoya (made in spring/summer of 2015) was not in writing and I also received a similar verbal reassurance (in spring/summer of 2013) from my Department Chair Ahmed Tewfik, thus I need to ask why hers was honored and mine not. "

Thanks,  
 Evdokia

-----  
 Zoya Heidari from Petroleum Engineering was promoted last year (2018) to Associate professor with tenure, having gone up after 4 years at Texas A&M and 2 years at UT. Thus she was 3 years early on the UT clock. She told me that when coming to UT, she made a deal with the Dean to be considered for tenure soon after joining UT. The Dean's Assessment for her, in its last paragraph states:

1. One may ask why Dr. Heidari is being considered for promotion at this time, when she has not yet reestablished her research program at UT. A commitment was made when she was recruited from Texas A&M that her promotion case would be considered in a timely manner.

In comparison with me:

- \* Zoya's undergraduate teaching scores are below the median and a peer teaching reviewer offered her very specific suggestions for improvement. Mine were above the median, my peer teaching reviewers offer evaluations of "very clear teaching style" and "effective classroom teacher" and my budget council assessment is "exceeds expectations".
- \* The Dean does not mention my peer teaching reviews and does not mention my many positive and glowing student comments (nor any reference to the budget council evaluation).
- \* The Dean calls Zoya "a dedicated teacher" while she calls my teaching record "modest" and not having taken responsibility to improve it. (which is incorrect, as evidenced by specific steps of improvement outlined in my teaching statement as well as appendix at end of my rebuttal of how I have addressed most student comments for improvement).
- \* Funding: The Dean says

1. Her share of research funding at Texas A&M exceeded \$3.4 million, which is a remarkable amount. However, the level of peer-review for these grants is not clear.

For me the Dean recognizes my funding has come from "highly competitive sources". My total funding amount of \$1.8 million cannot be directly compared to Zoya's as the standards for funding in our different research

areas are completely different. I do remark that for theoretical research like mine, the standard is generally less than half that of applied areas and as such my funding record is equivalent and is very strong (as mentioned in my external letters).

\* In terms of funding pattern, the Dean remarks that Zoya has obtained almost all her funding at Texas A&M and only \$200K (5%) of funding at UT (compared to \$1.1 million or 60% for me). She heavily penalizes me for what she considers a drop in funding while she gives great leniency to Zoya stating

1. The global decrease in oil prices has reduced Dr. Heidari's ability to secure research funding from industry at UT...
1. The department budget council and I do not believe that the global downturn in oil and gas prices should be the deciding factor in the duration of her probationary period at UT.

\* My research is stronger by multiple metrics (again it is perhaps unrealistic to compare absolute numbers similarly to funding but the high-level pattern speaks of that): one of Zoya's recommenders comments that

1. My only advice would be for her to consider aiming to publish some work in higher-profile or more general journals with a broader readership: at present most papers are published in somewhat specialist petroleum publications."

In contrast all my letters and the Dean's assessment speak of my strong publication record in the highly selective conferences and high-impact journals such as Operations Research which has a very broad readership.

\* Most of Zoya's 8 external letters are not from peer institutions, such as Colorado School of Mines, Houston, Oklahoma, Penn State, Texas A&M (and Imperial College London). All of my 9 letters are from peer institutions. I remember the Provost at a meeting on promotion & tenure making a big deal of how important it is to have the external letters from peer institutions for credibility, and I was really pushed to pick only such big names (which is harder since they are loaded with reference letter requests and are often less familiar with the candidate's research, as supposed to researchers in my more immediate research area).

\* Impact is measured by citations and what's know as the h-index (higher is better).

- Zoya has an h-index of 11 (Google Scholar) with 372 citations.
- I have an h-index of 17 (Google Scholar) and 994 citations.<sup>4</sup>

\* The Dean calls Zoya "an outstanding researcher" while for me she merely says I have "a strong publication record" even though I show that my h-index and citations were higher than multiple (male) peers recently tenured at peer institutions.

\* Based on the above points, the conclusions paragraphs in the Dean's assessment for Zoya and for me are very inconsistent. For Zoya:

1. In summary, Dr. Heidari is a dedicated teacher and an outstanding researcher. She established an extremely well-funded research program at Texas A&M from a variety of industry sources, and is working diligently to reestablish her research program at UT. External referees enthusiastically support her promotion. Her record of student advising and mentoring is strong. She is quite active in the professional community and she has received several competitive awards from the Society of Petroleum Engineers.

In contrast, for me she concludes:

Dr. Nikolova has a strong publication record, she has received two prestigious awards, and she is actively engaged with the Simons Institute for the Theory of Computing at UC Berkeley.<sup>8</sup> However, her teaching record is modest and the budget council expressed concerns about her relatively weak engagement in the department.

\* Most notably, the end of the conclusions for Zoya:

1. One may ask why Dr. Heidari is being considered for promotion at this time, when she has not yet reestablished her research program at UT. **A commitment was made when she was recruited from Texas A&M that her promotion case would be considered in a timely manner.** The department budget council and I do not believe that the global downturn in oil and gas prices should be the deciding factor in the duration of her probationary period at UT. As such, I believe that Dr. Heidari's performance meets or exceeds expectations for early promotion to associate professor with tenure in all categories, and I support this case without reservation.

And for me:

If this were an up-or-out case, I would likely agree with the recommendation of the Promotion and Tenure committee. However, Dr. Nikolova is being considered for promotion at UT Austin two years early. I do not believe that she has taken responsibility for improving her teaching, and I have concerns about the sustainability of her research program. These concerns are compounded by the fact that both her teaching and her external funding have dropped since she spent the 2015 fall semester at UC Berkeley.

As such, I do not believe that Dr. Nikolova's performance meets expectations for early promotion to associate professor.

The reassurance to Zoya (made in spring/summer of 2015) was not in writing and I also received a similar verbal reassurance (in spring/summer of 2013) from my Department Chair Ahmed Tewfik, thus I need to ask why hers was honored and mine not.

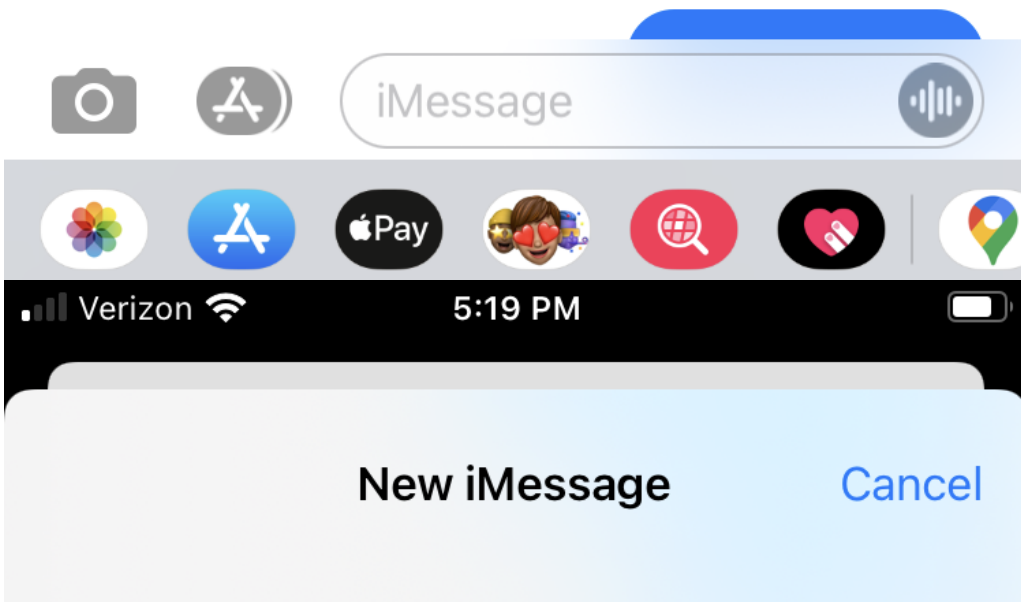
--

Evdokia Nikolova

<http://users.ece.utexas.edu/~nikolova/>

# EXHIBIT 4

next flight.



To: [Ahmed H Tewfik](#)

Mar 22, 2019, 5:15 PM

Just landed in DFW and saw your email. Nice work!

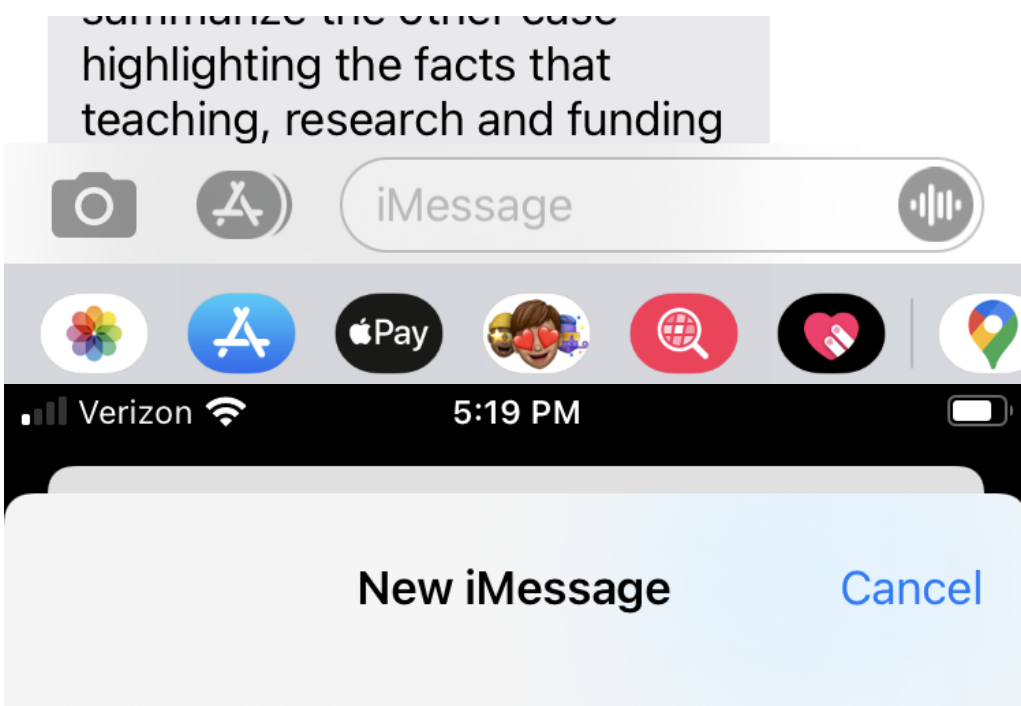
I'll read the attachments on my next flight.

Great, thanks!

Mar 22, 2019, 10:51 PM

Your arguments and case are perfect. I'd start by saying that you're appealing because it seems to you that the same standards aren't being applied to all cases. I would then summarize the other case



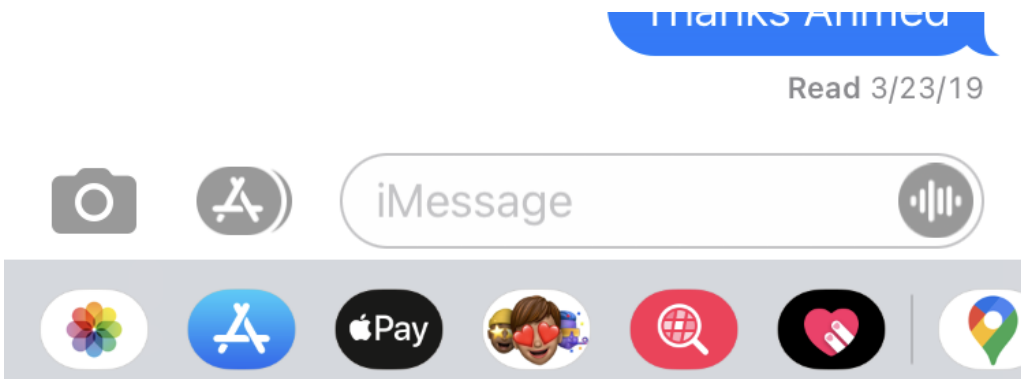


To: [Ahmed H Tewfik](#)

perfect. I'd start by saying that you're appealing because it seems to you that the same standards aren't being applied to all cases. I would then summarize the other case highlighting the facts that teaching, research and funding appear weaker than your case and yet it was tenured under similar circumstances. I would then detail each point as you did and conclude with the different assessments given despite the objective facts.

Mar 23, 2019, 10:49 AM

Thanks Ahmed



Sent from my iPhone

# EXHIBIT 5



ELECTRICAL AND COMPUTER ENGINEERING DEPARTMENT  
Cockrell School of Engineering

2501 Speedway · EER Building · Austin, Texas 78712-0240 (512) 471-6179 Fax (512) 471-3652  
<http://www.ece.utexas.edu>

October 29, 2018

## **Chair's letter in support of the promotion of Prof. Evdokia Nikolova to the rank of associate professor with tenure**

Prof. Nikolova joined the Department of Electrical and Computer Engineering in January 2014. If promoted to associate professor in September of 2019, she will have served as an assistant professor at the University of Texas at Austin for five years. This is therefore technically an early promotion case—particularly because she has received an extension of her probationary period. However, she began her academic career at Texas A&M University as an assistant professor in August 2011. Her case would not be early if these two years of service are considered. I also note that when we recruited her, Evdokia requested to be considered for promotion at UT around the time that she would have been eligible for promotion at Texas A&M University. She has also asked to be considered for promotion in the last couple of years and may be seeking opportunities outside UT.

Evdokia is an emerging pioneer studying optimization and game theory applications that involve the human element and risk aversion. The Budget Council recognized her strong accomplishments and potential and determined that she meets all expectations for promotion at the premier departments of Electrical and Computer Engineering in the nation by a vote of 32 YES, 1 NO, 2 ABSTAIN and 2 INELIGIBLE TO VOTE. The ineligible votes are Prof. Mark Smith's and mine. Our associate professors voted 10 YES, 0 NO and 0 ABSTAIN in support of promotion. My colleagues expressed support for Evdokia during the promotion discussion and in the anonymous comments submitted with the vote. A couple of professors raised concerns about her relatively weak engagement in the department and the wireless communications and networking center (WNCG) to which she belongs. I attribute the negative vote and abstentions to these concerns.

### **Third Year Review**

Prof. Nikolova's third year review was conducted last year (2017-2018 academic year) because of the extensions to her probationary period. The committee that conducted the review said that she has "a solid research program in game theory, distributed optimization, and algorithms. She has achieved notable success in funding and has the expected productivity in terms of papers and students. Her teaching is valuable to the department and well-rated at both the undergraduate and graduate levels. Her service record is appropriate for an Assistant Professor. For her promotion case to be as strong as possible, it would be good to graduate a PhD student and slightly increase her publication output. Post-tenure, it would be good for her to become more actively involved in leadership activities internally and externally."

Given that the third-year evaluation was so close to the submission of her promotion case, it's unrealistic to expect that Evdokia would have addressed some of the suggestions in the third-year review by this time. However, I do note that one of Evdokia's graduate students did successfully

defend his PhD thesis in the spring of 2018 and graduated last month. Three of her conference papers in selective conferences were also accepted for publication after the review.

### **Teaching Load of Assistant Professors**

The normal teaching load for a tenure-track assistant professor is two courses per academic year plus supervision of a senior design team for two semesters. One of the courses must be an undergraduate course. This requirement is waived only under exceptional circumstances if the department has unmet needs at the graduate level. Faculty in the department are routinely given modified instructional duties upon the birth of a child.

Evdokia was given an unbalanced teaching load in the academic year 2015-2016 to attend the workshop on Economics and Computation at the Simons Institute for the Theory of Computing at UC Berkeley in the fall of 2015. The workshop raised her visibility in the research community and helped her broaden her research portfolio. The workshop also provided her with the experience needed to organize a follow-up workshop on real-time decision-making at the same institute in the spring semester of 2018. Several reference letter writers refer to one or both workshops in their letters. Evdokia became pregnant during the fall of 2015 and was given modified instructional duties in the spring semester of 2016. She therefore didn't teach during the academic year 2015 – 2016.

### **Teaching**

Evdokia's instructor course evaluation scores don't paint a complete picture of her passion for teaching. Her scores in EE360C: algorithms, an upper division course that roughly 60% of our undergraduate students take, range from a low of 3.7 to a high of 4.0. While these scores are below the median ratings for assistant professors in general, they are in line with the average instructor scores for this course, clearly indicating a need to continue to improve delivery of the material in the course. Evdokia uses a combination of PowerPoint presentations and whiteboard to present topics in the class. She also alternates between presenting theoretical material and problem solving. Students praise her for being a "good teacher," "easily reachable," and "enthusiastic." Yet other students wished that "she had more office hours" and complained about the lectures not being exciting, ineffective teaching assistants and her whiteboard writing.

It's important to note that Evdokia made some transformative changes to the delivery of EE360C that have had a positive effect on the students that she has taught and those who have had the course from other instructors as these instructors adopted Evdokia's innovations. For example, Evdokia pioneered the use of team teaching in this course, a technique that is used in several of our courses and in which all sections of a given course are delivered in synchrony with the same problem sets and exams. Together with our colleague David Soloveichik, she introduced optional recitation sections that help the students master the material. Furthermore, she introduced the concept of "Lunch with the professors" to break the barrier between students and instructors.

Her graduate courses instructor scores also range from a low of 3.9 to a high of 4.1, again below the median ratings for assistant professors in graduate courses. She earned these scores in two graduate courses that she introduced, which were much needed across all of UT. One of these courses is an advanced algorithm course that covers approximation algorithms. The second course is a game theory course. It's noteworthy that Evdokia made a concerted effort to integrate real-world applications into these two courses that cover extensive abstract topics. It's also interesting to note that student comments in the two courses are somewhat similar to the comments that she has received in EE360C, with many students praising her energy level and

enthusiasm and others complaining about boring classes and solutions to homework not being provided in a timely manner.

I also note that Evdokia has lectured in our Edison lecture series and camp Texas. The Edison Lecture Series is a program for middle and high school students funded by the department that showcases potential careers in electrical and computer engineering. Through interactive lectures, students learn how electrical and computer engineers make a difference in the world. Since we established this program in 2005, we have reached over 26,000 young people.

As mentioned earlier, Evdokia graduated one PhD student in rank. She has also supervised one post-doctoral researcher while in rank. That researcher is now a lecturer at the National Technical University of Athens.

## **Research**

Evdokia's research is unique in that it incorporates human risk aversion into complex optimization problems with deep societal and policy-making impacts. This is an emerging area of research in operations research, electrical and computer engineering and computer science that is gaining importance as more sensors are embedded in infrastructures, mobile devices, humans and means of transportation. Evdokia's research provides alternatives to the solutions provided, for example, by Google maps, Apple maps or Waze to the problem of finding the best path between one's home and the airport. Her solutions take into account the risk tolerance or aversion of the user. For example, her algorithms can provide a suggested route that will guarantee that the user arrives at her destination at a given time as opposed to the solution provided by Google maps which may involve an expected shorter travel time but with a high degree of variability that in a worst-case may lead to the user missing her flight.

Evdokia's work stands out because, unlike most research in optimization and game theory that focuses on computational efficiency issues, she studies how to incorporate risk in deriving the optimal solutions to a given problem, and the impact of risk and incentives on the answer to a given policy question, and on algorithms and their performance.

Evdokia is perhaps best known for her pioneering works on finding shortest paths under uncertainty and with random model parameters and on characterizing the loss of performance in a route network when risk affects the decision-making of individual users of the network. Prof. Goel (Stanford) notes that the work had "the largest influence on" his "own thinking." The work showed how to correctly incorporate risk into an analysis of the algorithms, and in particular incentives. Most importantly, it also quantified the effect of risk on the performance of any network in which individual users independently select their routes in the presence of risk. The work achieved considerable visibility as measured by citation standards in the subarea. Prof. Shmoys (Cornell) states that the work "is technically non-trivial and provides clear insights into the trade-offs exposed by this elegant framing of the question." He also notes that "the modeling aspects and mathematical structure results combined to provide clear insights into a central problem in routing control, and with the rise of at least traffic routing, the importance of these results is ever-increasing."

Her more recent work on setting tolls on road segments has also attracted considerable attention despite its young age. Specifically, Evdokia studied the problem of having multiple independent operators set tolls on the segments they own to maximize their profit. Users select their routes to minimize travel time and costs. Travel times, of course, depend on segment congestion, i.e., utilization by other users. She then proceeds to identify an optimal solution in which no toll operator can gain from changing the toll on a segment it owns given that users try to minimize travel time and cost. The work led to a surprising conclusion: imposing an upper bound on how

much a toll operator can charge on a given link leads to an optimal traffic assignment such that any change in the toll on any given segment will lead to a higher travel time plus cost for at least one user. In fact, with no caps on tolls, the route network will inevitably be utilized in a sub-optimal manner. The work appears to be the first to study this problem in its full generality. Prof. Yannakakis (Columbia) describes the work as “very nice.” Prof. Schultz (TU München) notes that the work “shows how proper mathematical analysis may influence policy making.”

I also note that Evdokia has begun to investigate the efficiency of the electric distribution grid. This line of work is very timely as more customers install solar panels or generate electricity from renewable sources. She has already produced interesting results on the use of incentives to balance supply and demand, the use of electric vehicles to store energy and rebalance the grid and strategies for upgrading distribution networks. Given her track record, experts expect her to have a deep impact on the field as exemplified by the following statement from Prof. Van Hentenryck (Georgia Tech), “her skills may bring some fundamentally new insights that will help shape the future of electricity networks.”

Prof. Nikolova is well funded by highly competitive peer-reviewed grants and industry.

Our department has adopted the practice of comparing each colleague with her or her most prominent peers at the first-tier departments in Electrical and Computer Engineering, such as MIT, Stanford, the University of California Berkeley, the University of Illinois Urbana-Champaign (UIUC), Georgia Tech, Caltech and Princeton. I selected Associate Profs. Seth Pettie (U. Michigan), Anup Rao (U. Washington) and Vineet Goyal (Columbia) to be the peer comparison group for Evdokia. Pettie, Rao and Goyal were promoted to the rank of associate professor with tenure in 2012, 2016 and 2017 respectively. Evdokia compares very favorably to all three associate professors at the time of their promotion. Indeed, we estimate the Google h-indices of all three associate professors at the time of their promotion to be in the 15-16 range. The citation counts for Pettie and Rao at the time of promotion are estimated to be slightly lower than Evdokia’s while that of Goyal is substantially lower. All letter writers explicitly mention the high quality of her work. Prof. Van Hentenryck notes that she has “pioneered new concepts and developed their foundations with fundamentally new insights,” bridging “different areas of the field.” Prof. Jaillet (MIT) summarizes the sentiment of the letter writers when he states that “her record is on par with recently tenured cases that I have been asked to review (at Georgia Tech, USC, MIT and Northwestern.)”

	PhD	Promoted	Publications in top venues at promotion	H Index	Citations
Seth Pettie (Michigan)	2004	2012	15	24	2259
Vineet Goyal (Columbia)	2008	2017	14	17	737

Anup Rao (MIT)	2007	2016	14	19	1490
Evdokia Nikolova (UT Austin)	2009		16 (in rank)	17	970

### Service

Evdokia has provided reasonable service to the department. As noted by some of my colleagues during the BC discussions, her level of involvement in the department has been lower than average. However, this is not a concern as it's mainly due to her personal circumstances at this stage of her life.

### Summary

Evdokia is a good teacher who cares about the students and an accomplished researcher who as noted by Prof. Van Hentenryck "is a remarkable scientist with a strong case for tenure and promotion. She would certainly have received tenure at all the institutions I have been affiliated with [Brown, Michigan, Georgia Tech]." I strongly endorse her promotion to associate professor with tenure.

Sincerely,



Prof. Ahmed H. Tewfik

Cockrell Family Regents Chair in Engineering  
Chairman, Department of Electrical and Computer Engineering





# EXHIBIT 6



Handbook of Operating Procedures 2-2010

## Academic Titles and Tenure

The University of Texas at Austin

Executive Sponsor: Executive Vice President and Provost

November 1, 1982

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Academic titles in The University of Texas System are listed and defined in the Rules and Regulations of the Board of Regents, **Rule 31001** (<http://www.utsystem.edu/board-of-regents/rules/31001-faculty-appointments-and-titles>).

Regulations concerning academic tenure are provided in the Rules and Regulations of the Board of Regents, **Rule 31001** (<http://www.utsystem.edu/board-of-regents/rules/31001-faculty-appointments-and-titles>). Particular attention should be given to the mandatory notification requirement detailed in the regulations. The following interpretation and expansion of these regulations apply to The University of Texas at Austin.

Tenure denotes a status of continuing appointment as a member of the faculty at a component institution. Only members of the faculty with academic titles of Professor and Associate Professor may be granted tenure after September 1, 1980. Tenure may not be granted to any individual holding a professorial rank carrying the description "visiting," "clinical," or "adjunct." Tenure may be granted at the time of appointment or withheld pending satisfactory completion of a probationary period of faculty service. Appointments to the title Professor or Associate Professor shall be with tenure.

No nontenured member of the faculty should expect continuing appointment beyond the term of his or her current appointment. Any commitment to employ a nontenured member of the faculty beyond the term of his or her current appointment shall have no force and effect until approved by the Board of Regents.

Only full-time service in the academic rank of Instructor or Assistant Professor, or any combination thereof, shall be counted toward fulfillment of a required probationary period related to the acquisition of tenure. Full-time service is defined as holding a 100% time appointment in the University for both the fall and spring semesters of an academic year on faculty salaries and/or on any other funds administered by the University, and being in full compliance with Regental standards pertaining to the minimum faculty teaching requirements. Periods during which a faculty member is on leave of absence without salary from the University or is serving in the rank of Lecturer, Senior Lecturer, Specialist or any rank carrying the description "visiting," "clinical," or "adjunct," or periods of prior academic service at any institution other than The University of Texas at Austin shall not be counted toward fulfillment of a required probationary period related to the acquisition of tenure. The title Visiting Assistant Professor is not used at UT Austin.

### 1. Instructors

The maximum probationary period that may be served in the rank of Instructor is four years. Not later than an instructor's third year of full-time service, the budget council and chairman of his or her department shall recommend to the administration: (a) that he or she be promoted to assistant professor; or (b) that he or she be placed on terminal appointment for the next (i.e., fourth) year. The instructor should be informed not later than August 31 of his or her third year of full-time service of the final decision regarding his or her status. Nothing, however, shall preclude a review of a decision to place an instructor on terminal appointment during the year in which the individual is serving under terminal appointment.

An instructor who, for any reason, has been continued beyond the four-year probationary period is not eligible for tenure as an instructor nor will promotion to assistant professor automatically result. A review of the status of any instructor in these circumstances will be mandatory as soon as possible following discovery.

## 2. Assistant Professors

The maximum probationary period that may be served as an assistant professor is seven years. If the individual has held the rank of Instructor, the maximum period that may be served in any combination in rank of Instructor and Assistant Professor shall not exceed seven years.

Not later than an individual's sixth year of full-time service as an assistant professor, or of combined service as instructor and assistant professor, the budget council and chairman of his or her department shall recommend to the administration: (a) that he or she be promoted to associate professor with tenure; or (b) that he or she be placed on terminal appointment for the next (i.e., seventh) year.

An assistant professor who, for any reason, has been continued beyond the seven-year probationary period is not eligible for tenure as an assistant professor nor will promotion to associate professor automatically result. A review of the status of any assistant professor in these circumstances will be mandatory as soon as possible following discovery.

Previously HOP 3.15



# EXHIBIT 7



Handbook of Operating Procedures 2-2160

## Recommendations Regarding Faculty Compensation, Faculty Promotion, Tenure, Renewal of Appointment, or Nonrenewal of Appointment

The University of Texas at Austin

Executive Sponsor: Executive Vice President and Provost

October 21, 2014

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It is the policy of the University to provide fair and equitable compensation for services rendered by the faculty. Salary advancement, promotion in rank, and the award of tenure are based on excellence in performance. Recommendations for salary advancement, promotion in rank, tenure, renewal of appointment, or non renewal of appointment shall be made on the basis of an annual evaluation of each faculty member in the following areas of service:

1. Teaching, both undergraduate and graduate. (Recommendations should be accompanied by an evaluation of teaching competence. Student evaluations should be considered.)
2. Research, creative activities, and other scholarly effort.
3. Advising, counseling, and other student services.
4. Administrative and committee service.
5. Public service to the nation, state and community.
6. Other evidence of merit or recognition, such as fellowships, grants, honors, and election to office in scholarly or professional organizations.

Responsibility for submitting annual reports and for keeping their personnel files up-to-date with any new material concerning teaching activities, research, scholarship, publications or public service rests with the individual faculty members. The annual evaluation of each faculty member shall include an assessment of these documents.

Responsibility for preparing recommendations for hiring of faculty (including non-tenure-track faculty whenever possible), salary rates, promotion, tenure, renewal of appointment, or non-renewal of appointment rests with the Budget Council (or other departmental governing body) and the department chair. Administrative officers at each level shall give full consideration to recommendations from the level below. In the case where a recommendation is modified or disapproved the action should normally be taken only after consultation with the level below. All recommendations shall be forwarded to the president for final

UT Austin\_00774

evaluation and decision. The president's decisions with regard to salary advancement, promotion in rank, the award of tenure, and renewal of appointment are subject to confirmation by the Chancellor of The University of Texas System and the Board of Regents. No commitment regarding salary rates, promotion, tenure, or renewal of appointment may be made without the approval of the president and subsequent confirmation by the Chancellor of the University System and the Board of Regents.

The final results of the annual evaluation shall be communicated to each faculty member by the department chair. This communication shall be written and it shall advise the faculty member of any areas that need improvement. (See **HOP 2-2150** (<http://policies.utexas.edu/policies/annual-review-and-periodic-evaluation-tenured-faculty>), Annual Review and Periodic Evaluation of Tenured Faculty.)

Recommendations for all changes in academic rank/status (promotion or non renewal of appointment) are normally considered in the fall of each academic year in accordance with a schedule and policies set forth by the president. Faculty in the probationary period shall be considered for promotion no later than the sixth year of probationary service ("up or out" year) as provided in **HOP 2-2010** (<http://www.policies.utexas.edu/policies/academic-titles-and-tenure>), Academic Titles and Tenure. Faculty in the rank of associate professor may be considered for promotion to professor during any year deemed appropriate by the Budget Council and department chair. In addition, a faculty member in the rank of associate professor has the right to be considered for promotion to professor in his or her tenth year of service as an associate professor. To invoke this right of consideration, the associate professor must advise his or her department chair no later than February 1 of his or her ninth year of service of the desire to be considered for promotion to professor. The case shall be considered at all administrative levels, including the president. Should the associate professor not be promoted, he or she may be considered during any year thereafter at the discretion of the Budget Council and department chair or may invoke his or her right to be considered during the end of the subsequent five years of service.

The president will issue annually the institutional guidelines on budget preparation, following receipt of budget instructions from the Chancellor of The University of Texas System and the Board of Regents.

The dean of a college or school, in consultation with the executive vice president and provost, may promulgate and, after review and approval by the president, distribute to the faculty such additional procedural guidelines and information as may be appropriate to the evaluation of faculty for salary advancement, promotion, or the award of tenure in the college or school. Such additional guidelines shall be void to the extent of any conflict with the Regents' Rules and Regulations or the *Handbook of Operating Procedures*.

Reconsideration of a salary rate, a promotion or tenure decision, or a renewal or non renewal decision made by the president may be requested if it is based on new evidence or on evidence of an infringement of the laws or constitution of this state or the United States. Any member of the faculty so affected may seek redress of grievance through established channels, which are as follows: (1) department chair, (2) college or school dean, (3) executive vice president and provost and (4) president; or through use of the faculty grievance procedure (**HOP 2-2310** (<http://policies.utexas.edu/policies/faculty-grievance-procedure>) Faculty Grievance Procedure).

The president may accept, reject, or modify all recommendations forwarded and may make decisions with regard to salary increases, promotion in rank, the award of tenure, renewal of appointment, or non renewal of appointment of a faculty member regardless of whether a recommendation has been received.

Failure to communicate the result of an annual evaluation or to advise a faculty member about needed improvements shall not invalidate or prejudice any decision that may be made regarding the salary, faculty

rank, tenure, renewal of appointment, or non renewal of appointment of the faculty member.

Previously HOP 3.17

**EXHIBIT 8**

THE UNIVERSITY OF TEXAS AT AUSTIN

**RECOMMENDATION FOR CHANGE IN ACADEMIC RANK/STATUS**Name: Heidari, Zoya EID: zh732 Present Rank: Assistant Professor

Years of Academic Service (Include AY 2017-18 in each count):

At UT Austin since: 9/1/2015 (month/day/year) Total Years at UT Austin: 3In Present Rank since: 9/1/2015 (month/day/year) Total Years in Present Rank: 3

Tenure-track only:

Number of Years in Probationary Status: 3Additional information: AcceleratedPrimary Department: Petroleum and Geosystems EngineeringCollege/School: Engineering, Cockrell School ofJoint Department: N/ACollege/School: N/AOther Department(s): N/A**Recommendation actions<sup>1</sup>:**By Budget Council/Executive Committee: PromoteVote<sup>2</sup> for promotion 2; Against 0; Abstain 1; Absent 0; Ineligible to vote 1By Department Chair: PromoteBy College/School Advisory Committee: PromoteVote<sup>2</sup> for promotion 7; Against 0; Abstain 0; Absent 0; Ineligible to vote 0By Dean: PromoteAdministrative Action: Promote to Associate ProfessorDate Action Effective: September 1, 2018

(To be submitted to the Board of Regents as part of the annual budget.)

By: Maurice M. L. L. Date: February 15, 2018

For the President

<sup>1</sup> See "Chart of Recommended Actions" for eligible recommended actions applicable to specific conditions and administrative levels.<sup>2</sup> Record all votes for and against promotion, abstentions by eligible voting members, and the number of absent eligible voting members. The number of committee members ineligible to vote should also be recorded. Enter zero where it would otherwise be blank.



The University of Texas at Austin

**Cockrell School of Engineering****Dean's Assessment****Zoya Heidari**

Hildebrand Department of Petroleum and Geosystems Engineering  
Cockrell School of Engineering

Dr. Zoya Heidari received her BSc in mechanical engineering and MSc in biomechanical engineering from Sharif University of Technology (Iran) in 2005 and 2007, respectively. She received her PhD in petroleum and geosystems engineering from the University of Texas at Austin in 2011<sup>1</sup>. She joined the faculty in the Harold Vance Department of Petroleum Engineering at Texas A&M University as an assistant professor in September 2011, and moved to the Hildebrand Department of Petroleum and Geosystems Engineering (PGE) at the University of Texas at Austin in September 2015.

If promoted to associate professor in September 2018, Dr. Heidari will have accumulated three years of probationary service at UT and a total of seven years in rank as an assistant professor. While this case is considered to be accelerated when considering only Dr. Heidari's time at UT, her total time in rank exceeds our normal timeline.

Dr. Heidari's research is focused on the in-situ formation evaluation and petrophysical assessment of permeable rocks with a goal of quantifying the fluid storage and transport properties. Dr. Heidari has also developed several new methods and algorithms for the quantification of effective physical properties of rocks and she has advanced new procedures for the enhanced in-situ assessment of rock properties using a variety of fluid/solid contrast agents, including nanoparticles. Within the Hildebrand Department of Petroleum and Geosystems Engineering, her work contributes to three of the twelve primary research areas: formation evaluation; unconventional resources; and petrophysics and pore-scale processes.

Eight external letters were submitted as part of the promotion dossier, with three letter writers recommended by Dr. Heidari and five selected by the budget council. Seven letter writers are faculty at US institutions: Colorado School of Mines, Houston<sup>2</sup>, Oklahoma, Penn State<sup>3</sup>, Stanford, and Texas A&M<sup>4</sup>. One letter writer is a faculty member at Imperial College London. Two of the letter writers are members of the National Academy of Engineering (NAE).

Letters were solicited from three additional external reviewers. Two declined due to personal commitments and/or lack of familiarity with Dr. Heidari's area of research. One potential reviewer did not respond to the request.

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<sup>1</sup> Carlos Torres-Verdin supervised Dr. Heidari during her graduate studies at UT.

<sup>2</sup> Christine Ehlig-Economides served as Dr. Heidari's faculty mentor at Texas A&M for three years before she joined the University of Houston in 2014. However, there is no record of any formal research collaboration.

<sup>3</sup> Russell Johns served on the faculty in the Department of Petroleum and Geosystems Engineering at UT Austin from 1995 to 2010. Dr. Heidari did not take any courses from Dr. Johns, and he did not serve on her PhD committee.

<sup>4</sup> Michael King served as the chair of the search committee when Dr. Heidari was hired at Texas A&M. There is no record of any formal research collaboration.



Teaching

While in rank at UT, Dr. Heidari has taught one undergraduate course and two graduate courses:

- PGE 337, *Introduction to Geostatistics*  
Required undergraduate course  
Taught two times (average enrollment of 56 students)  
Instructor ratings: 4.0 to 4.4 | Course ratings: 3.7 to 4.0
- PGE 383, *Rock Physics*  
Graduate elective  
Taught once (7 students)  
Instructor rating: 4.9 | Course rating: 4.6
- PGE 385K, *Advanced Multi-Well Formation Evaluation*  
Graduate elective  
Taught once (15 students)  
Instructor rating: 4.4 | Course rating: 4.1

Dr. Heidari's average instructor at the undergraduate level are slightly below the median (4.3) for both the department and the Cockrell School, and her average instructor rating at the graduate level is above the median within the department (4.3) and school (4.5). Senior faculty conducted peer evaluations in Dr. Heidari's courses two times in rank. Carlos Torres-Verdin provided very specific feedback regarding areas of potential improvement in her undergraduate course. Student comments were generally positive, but several complained about using MatLab in PGE 337.

Dr. Heidari taught eight courses as a faculty member at Texas A&M. Her average instructor rating was 3.95/5.0 in the undergraduate courses and 4.43/5.0 in the graduate courses.

Research

Dr. Heidari's research focuses on petrophysics and multi-scale formation evaluation, especially for unconventional resources (carbonates and shale formations). Her key contributions involve the use of nuclear magnetic resonance (NMR) measurements for detection of production zones, developing new models for formation evaluation, and describing the rock fabric (spatial pore geometry) in reservoirs. Highlights of Dr. Heidari's research accomplishments include:

- 30 archival journal publications in rank<sup>5</sup> (34 career total). She published 23 journal papers in rank with her graduate students.
- Many of her publications are in top journals in her field including *Applied Clay Science* (IF=3.1), *AAPG<sup>6</sup> Bulletin* (2.8), *Geophysics* (2.4), *SPE<sup>7</sup> Journal* (2.2), and *Mathematical Geosciences* (2.0). She has also published extensively in journals that are more narrowly focused on her specific research interests: *Journal of Petroleum Science and Engineering* (1.9), *SPE Reservoir Evaluation & Engineering* (1.7), *SPE Production & Operations* (0.8), *Petrophysics* (0.8), and *Interpretation – A Journal of Subsurface Characterization* (0.7).
- An h-index of 11 (Google Scholar) with 372 citations.

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<sup>5</sup> 17 at UT (four are in press) and 13 at Texas A&M

<sup>6</sup> American Association of Petroleum Geologists

<sup>7</sup> Society of Petroleum Engineering

While at Texas A&M, Dr. Heidari established an impressive record of research funding from industry and foundations:

- She established a joint industry research program (JIP) with six members, which provided \$900,000 (all her share)
- She received \$100,000 from the American Chemical Society Petroleum Research Fund through the Doctoral New Investigator grant program.
- She received \$40,000 from the Society of Petroleum Engineers through a Research Fellowship Award for new faculty.
- She and several colleagues worked directly with industrial sponsors to secure \$930,000 (\$525,000 her share).
- She secured two research projects from JIP directed by senior faculty at Texas A&M (\$300,000 her share).
- She was a co-PI on a grant with colleagues at Texas A&M Qatar from the Qatar National Research Foundation for \$900,000 (\$110,000 her share).
- She was a co-PI on a multi-university team that secured \$3.9 million from the Skoltech Center for Research (Russia) (\$540,000 her share).
- She received four grants through the Crisman Institute<sup>8</sup> at Texas A&M, for a total of \$770,000 (\$700,000 her share).

Her share of research funding at Texas A&M exceeded \$3.4 million, which is a remarkable amount. However, the level of peer-review for these grants is not clear. Since joining UT, Dr. Heidari has received one external research grant from the Texas Oil and Gas Institute of the University of Texas System, and she established an industrial affiliate research program (IAP) with one member<sup>9</sup>. She is the sole PI on these grants/projects. Her total funding at UT Austin is \$200,000 (all her share).

The global decrease in oil prices has reduced Dr. Heidari's ability to secure research funding from industry at UT, but she had several additional contracts pending at the time that her promotion dossier was submitted.

All the external reviewers discussed the quality and impact of Dr. Heidari's work and recommended promotion. Martin Blunt<sup>10</sup> (Imperial College London) offered a recommendation, "My only advice would be for her to consider aiming to publish some work in higher-profile or more general journals with a broader readership: at present most papers are published in somewhat specialist petroleum publications."

#### Advising and Student Mentoring

At Texas A&M, Dr. Heidari graduated five PhD (one co-supervised) and eight MS students (three co-supervised). Dr. Heidari is currently advising five PhD and three MS students (one co-supervised) at UT and she continues to co-supervise a PhD student at Texas A&M. She also mentored one postdoctoral fellow at UT.

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<sup>8</sup> Funding is provided through an endowment and annual support from member companies.

<sup>9</sup> She is currently negotiating with three additional industry members. Each member company will provide \$50,000 annually to the IAP.

<sup>10</sup> Department of Earth Science and Engineering

University Service

Dr. Heidari's university service has been focused at the department level at UT, where she has served on a faculty recruiting committee and the graduate admissions committee. She is also a member of the Women in Engineering Program advisory committee for the Cockrell School.

Professional Service

Dr. Heidari is a member of several professional organizations. She currently serves as an associate editor for *SPE Production & Operations* and *Mathematical Geosciences* (Springer). She was recently elected to a two-year term as vice president of education for the Society of Petrophysicists and Well-Log Analysts.

Other Evidence of Merit or Recognition

Dr. Heidari's accomplishments have been recognized by the Society of Petroleum Engineers:

- She received a Research Fellowship Award in 2012 (six awarded). The award provides seed funding to new faculty members and recognizes their creative research ideas.
- She received an Innovative Teaching Award in 2015 (five awarded).
- She received the Cedric K. Ferguson Medal in 2017 for the best paper published in an SPE journal by an SPE member who is younger than 36.

Overall Assessment

In summary, Dr. Heidari is a dedicated teacher and an outstanding researcher. She established an extremely well-funded research program at Texas A&M from a variety of industry sources, and is working diligently to reestablish her research program at UT. External referees enthusiastically support her promotion. Her record of student advising and mentoring is strong. She is quite active in the professional community and she has received several competitive awards from the Society of Petroleum Engineers.

To date, Dr. Heidari has not received any federal research funding, but this is not a requirement for promotion. Many of the faculty in the Hildebrand Department of Petroleum and Geosystems Engineering receive the majority of their research funding from industry.

One may ask why Dr. Heidari is being considered for promotion at this time, when she has not yet reestablished her research program at UT. A commitment was made when she was recruited from Texas A&M that her promotion case would be considered in a timely manner. The department budget council and I do not believe that the global downturn in oil and gas prices should be the deciding factor in the duration of her probationary period at UT. As such, I believe that Dr. Heidari's performance meets or exceeds expectations for early promotion to associate professor with tenure in all categories, and I support this case without reservation.



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Sharon L. Wood, Dean  
20 November 2017

## Candidate's Summary on Research

**Table 1. Research Summary**

<b>Metric</b>	<b>Value</b>
Peer-reviewed journal publications (in rank and total)	30 / 34
Peer-reviewed conference proceedings (in rank and total)	59 / 70
Number of journal papers in rank with supervised student(s) from UT as co-author	15 with my students (TAMU and UT) after I joined UT, total of 23 with my students in rank
Total citations of all publications (career) from ISI Web of Knowledge	55
h-index (career) from ISI Web of Knowledge	4
Total citations of all publications (career) from Google Scholar or Publish or Perish	349
h-index (career) from Google Scholar or Publish or Perish	11
Total external research funding raised in rank	\$9,490,449
Total external research funding raised in rank (candidate's share)	\$3,414,305 <sup>1</sup>
Total number of external grants/contracts awarded in rank	16
Number of external grants/contracts awarded in rank as PI	11 (9 single PI, 2 with Co-PIs)

**Table 2. External Grants and Contracts Awarded**

Total **\$9,490,449**, My Share **\$3,414,305<sup>2</sup>** (\$2,282,113 as the PI, \$1,132,192 as a Co-PI) Funded Research  
+ **\$2,313,638** research funds under consideration/negotiation/review+**\$100,000** pending paperwork at UT Austin  
+\$12,000,000 W. D. Von Gonten Rock Physics Laboratory (Initial proposal preparation, Equipment selection and order)

<b>Role of Candidate and Co-Investigators</b>	<b>Title<sup>3</sup></b>	<b>Agency</b>	<b>Project Total</b>	<b>Candidate's Share</b>	<b>Grant Period</b>	<b>Institution to which the award was made</b>
PI	Integrated Formation Evaluation in South-central Delaware Basin and North-central Midland Basin Using Well Logs and Core Measurements	Texas Oil and Gas Institute (Part of the UT System, there has been a proposal and research agreement with specific budget, tasks, and timeline)	\$98,910	\$98,910	01/17 – 08/17	UT Austin
PI	Industrial Affiliate Research Program on "Multi-Scale Rock Physics for Unconventional and Carbonate Reservoirs"	BP (will pay for the 2 <sup>nd</sup> year in August, included in sum) Statoil (under negotiation, not included) Baker Hughes (Letter Attached, not included)	\$100,000 (\$50,000/year per company)	\$100,000 (\$50,000/year per company)	07/16 – present	UT Austin
PI	Joint Industry Research Program on "Formation Evaluation, Petrophysics, and Reservoir Characterization for Unconventional and Carbonate Reservoirs"	Aramco Services Company, BHP Billiton Petroleum, BP, Chevron, ConocoPhillips, and Devon Energy	\$900,000	\$900,000	09/12 – 09/15	TAMU
PI	Application of Acoustic	Saint-Gobain Proppants	\$100,000	\$100,000	01/15 – 01/17	TAMU

<sup>1</sup> \$838,707 was terminated after I left Texas A&M University.

<sup>2</sup> \$50,000 of this amount is pending paperwork/invoice. I expect to receive the funds in my account in August 2017.

<sup>3</sup> Level of competitiveness for each project is documented in an extension to Table 2 presented on Page 3.

	Measurements for Quantifying Mechanical Damage in Propping Agents					
PI	A New Method to Characterize Pore-Structure, Mechanical Damage, and Conductivity of Proppant Packs using NMR Measurements	Saint-Gobain Proppants	\$200,000	\$200,000	01/15 – 01/17	TAMU
Co-PI Grigorios Matenoglou (PI), TAMU Qatar Zoya Heidari (Co-PI), TAMU, UT Austin Vassilios C. Kelessidis (Co-PI), TAMU Qatar Georgios Papavassiliou (Co-PI), NCSR Demokritos Thomas Maris (Co-PI), University of Crete	Advanced Magnetic Resonance Imaging Methodologies for 3-D analysis of Multiphase flow processes in Oil Reservoirs and Enhanced Oil Recovery (NPRP 7-1372-2-498)	Qatar National Research Foundation	\$897,111.06	\$113,484.98  Division of labor: approximately 13%	03/15 – 03/18	TAMU, transferred to UT
PI	Impact of Organic-Matter Spatial Connectivity on Electrical Properties of Organic-Rich Source Rocks	American Chemical Society, Petroleum Research Fund (ACS PRF), Doctoral New Investigator (DNI) Research Grant	\$100,000	\$100,000	09/14 – 09/17	TAMU, transferred to UT
PI	Improved Subsurface Hydrocarbon Estimation in Organic-Rich Source Rocks Using Combined Interpretation of Well Logs and Core Measurements	Society of Petroleum Engineers (SPE) Junior Faculty Research Initiation Fellowship	\$40,000	\$40,000	09/12 – 09/14	TAMU
Zoya Heidari (PI) John Killough (Co-PI)	Application of Nanoparticle Imaging in Quantifying Diagenesis Effects of Propping Agents	Saint-Gobain Proppants	\$180,000	\$135,000 Division of labor: More than 75%	01/13 – 01/15	TAMU
Ding Zhu (PI), TAMU D. A. Hill (Co-PI), TAMU Jiajing Lin (Co-PI), TAMU Yucel Akkutlu (Co-PI), TAMU Zoya Heidari (Co-PI), TAMU	Optimizing Stimulation Treatments for PetroChina Tarim Oilfield Company	PetroChina Tarim Oilfield Company	\$450,000	\$90,000 Division of labor: Approximately 20%	09/13 – 09/16	TAMU
Ding Zhu (PI), TAMU D.A. Hill (Co-PI), TAMU Hisham Nasr-el-din (Co-PI), TAMU Zoya Heidari (Co-PI), TAMU	Acid Stimulation Research Program (ASRP). The projects I was responsible for: <ul style="list-style-type: none"> <li>Petrophysical Rock Classification using Conventional Well Logs to Detect Zones for Acid Stimulation in Carbonate Reservoirs</li> <li>A Quantitative Application of Well Logs to Improve Prediction of Acid Stimulation in Carbonate Formations</li> </ul>	Petroleum Industry (Baker Hughes, Pemex, BG Group, Petrobras, Chevron, Qatar Petroleum, ConocoPhillips, Saudi Aramco, Halliburton, Shell, Maersk, Schlumberger, and Total)	\$1,800,000	\$300,000  Division of labor: Approximately 17% (2 out of 11 projects)	09/12 – 09/15	TAMU
John Killough (PI), TAMU Zoya Heidari (Co-PI), TAMU Yucel Akkutlu (Co-PI), TAMU Berna Hascakir (Co-PI), TAMU Vivek Sarin (Co-PI), TAMU Eduardo Gildin (Co-PI), TAMU	Advanced Computational and Numerical Modeling Techniques for Hydrocarbon Recovery (Proposal: 1401945)	Skoltech Center for Research <sup>4</sup>	\$3,847,910	\$538,707 Division of labor: Approximately 14%	01/15 – 01/20	TAMU
PI	Enhanced In Situ Assessment of Petrophysical Properties and Kerogen Spatial Distribution in Organic-Rich Source Rocks using Well Logs	Crisman Institute (part of TAMU)	\$313,259	\$313,259	09/13 – 09/16	TAMU
Zoya Heidari (PI), TAMU	Developing Enhanced Well	Crisman Institute (part of	\$313,259	\$234,944	09/13 – 09/16	TAMU

<sup>4</sup> This project was initiated in collaboration with other universities.

John Killough (Co-PI), TAMU Mark Everett (Co-PI), TAMU	Logging Methods for Fracture Characterization in Organic-Rich Source Rocks using Nanotechnology	TAMU)		Division of labor: More than 75%		
PI	Investigating and Quantifying the Effect of Petrophysical and Compositional Properties on Electrical Resistivity of Organic-Shale Formations to Improve Well-Log Interpretation Methods	Crisman Institute (part of TAMU)	\$60,000	\$60,000	09/11 – 09/13	TAMU
D.A. Hill (PI), TAMU Ding Zhu (Co-PI), TAMU Zoya Heidari (Co-PI), TAMU	My contribution: Quantifying Vertical Heterogeneity in Carbonate Formations using Well Logs for Improving Prediction of Acid Fracturing	Crisman Institute (part of TAMU)	\$90,000	\$90,000 Division of labor: 100%	01/12 – 01/15	TAMU
<b>TOTAL</b>			<b>\$9,490,449</b>	<b>\$3,414,305</b>		

In addition to the aforementioned projects, I contributed in establishing a world-class Rock Physics Laboratory for Unconventional Resources at Texas A&M University (W. D. Von Gonten Laboratory):

- Rock Physics Laboratory for Unconventional Resources, W. D. Von Gonten Laboratories, D.A. Hill, Zoya Heidari, and Yucel Akkutlu, November 2013, \$12,000,000.

My contributions are listed as follows:

- Prepared the first draft of the proposal for the laboratory in 2011 upon joining Texas A&M University
- Contributed actively in expanding the initial proposal for W. D. Von Gonten Laboratories
- Selected up-to-date instruments for the laboratory and finalizing the quotes/orders
- Contributed actively in planning the laboratory set up and
- Prepared test procedures for some equipment

**Proposals under Consideration/Negotiation: (\$2,313,638+\$100,000 pending paperwork at UT Austin)**

- Integrated Formation Evaluation in South-central Delaware Basin and North-central Midland Basin Using Well Logs and Core Measurements: Phase II, Texas Oil and Gas Institute, \$100,000 (Approved, under contract), Submitted in August 2017, Funded in October 2017
- My Industrial Affiliate Research Program on “Multi-Scale Rock Physics for Unconventional and Carbonate Reservoirs” is under consideration by (Statoil (Funded in October 2017), Baker Hughes, Halliburton, and Occidental Petroleum): \$200,000 per year (supporting letter is attached)
- A proposal submitted to Saudi Aramco on “New In-Situ Reservoir Monitoring Method for Enhanced Hydrocarbon Recovery”: \$1,470,000, submitted in October 2016
- A proposal submitted to Statoil (Norway) on “Enhanced Automatic Fracture Detection and Formation Evaluation using Automatic Joint Interpretation of Image Logs and Conventional Well Logs”: \$200,000, Submitted in June 2017 (they decided to join my IAP)
- NSF CAREER Proposal on “Fundamental Investigation of Electromagnetic Properties of Rocks for Geophysical Characterization of Geothermal Systems”: \$443,638, Submitted in July 2017

**Table 2 (Continued). The Level of Competitiveness of the External Grants and Contracts Awarded**

<b>Project/Sponsor</b>	<b>Level of Competitiveness</b>
UT Industrial Affiliate Program (IAP)	High, Competition among other Joint Industry Programs (JIPs) and research centers in all the petroleum engineering departments in the world
TAMU Joint Industry Program (JIP)	High, Competition among other Joint Industry Programs (JIPs) and research centers in all the petroleum engineering departments in the world
Qatar National Research Foundation	High, Acceptance rate of approximately 15%
American Chemical Society, Petroleum Research Fund (ACS PRF)	High, Acceptance rate of approximately 20%
Society of Petroleum Engineers (SPE) Junior Faculty Research Initiation Award	High, Acceptance rate of approximately 6% in 2015, when I served as a reviewer
Crisman Institute	Moderate, Through ranking from 10-20 companies whose main interests were typically not Formation Evaluation, Acceptance rate of approximately 30%
Texas Oil and Gas Institute	High, Industry fund (Texas Oil and Gas industry is part of the UT system. I considered this in the industry category,



	because the research project, proposal, budget, reports, funding procedure are very similar to my industry projects)
Saint-Gobain Proppants	High, Industry fund
PetroChina Tarim Oilfield Company	Not enough information to judge, Industry fund
Acid Stimulation Joint Industry Research Program (ASRP)	Moderate/Similar to the case of Industry Research Consortia, but easier due to contributions from the senior faculty as Co-PIs
Skoltech Center for Research	High, Competition among other top institutions in the U.S. Received the Engineering Genesis (EG) award in 2015 and was recognized as one of the top TEES (Texas A&M Engineering Experiment Station) research awards for the year.

#### Clarifications on the Level of Competitiveness of the External Grants:

**Industry Funding in Petroleum Engineering:** The industry-funded research projects in my academic career (from September 2011 to August 2017) consists of two main categories: (A) research proposals written on one specific topic and submitted to a collaborating company for funding and (B) research consortia (my joint industry research program at TAMU and my industrial affiliate research program at UT Austin).

**Category A:** research projects within this category are often initiated after discussions with the petroleum industry, call for ideas from the petroleum industry, or being approached by a company for solving a challenging program that they deal with.

My research projects in this category: projects with Saint-Gobain Proppants, PetroChina Tarim Oilfield Company, and Texas Oil and Gas Institute (part of UT system)

**Category B:** A proposal has to be prepared for initiating research consortia on a specific field of research. The proposal is then distributed among several companies. PIs should present the idea and research innovations to these companies and invite them to support the proposed program and research vision. The success rate in attracting companies depends on factors such as the research direction/vision and ideas, technical reputation of the PI, as well as economic situation. The competition is among all the university faculty in petroleum engineering (and geosciences in my field of expertise) in the world. Although these research programs are often initiated by senior faculty, I have been successful in independently initiating successful projects in this category two times, once when I started my career at TAMU and once after I joined UT Austin (I have already secured three members for my UT industrial affiliate research program). I started the latter when the oil price was at its local minima.

My research projects in this category: UT Industrial Affiliate Research Program on "Multi-Scale Rock Physics for Unconventional and Carbonate Reservoirs" (current sponsors: BP, Statoil, Wildcat Technologies) and TAMU Joint Industry Research Program on "Formation Evaluation, Petrophysics, and Reservoir Characterization for Unconventional and Carbonate Reservoirs" (sponsors: Aramco Services Company, BHP Billiton Petroleum, BP, Chevron, ConocoPhillips, and Devon Energy)

**Acid Stimulation Research Program (ASRP):** I had research collaborations on two projects (out of 11 total projects defined as the research plan) within the Acid Stimulation Research Program (ASRP, a joint industry research program (Category B of industry funds), directed by Drs. Dan Hill and Ding Zhu) at TAMU. These two projects, proposed by me, were part of the initial proposal (total projects of eleven) prepared for establishing this research program, which was submitted to several oil and gas companies. I joined the team of PIs for promoting this program for attracting sponsors by making presentations to potential sponsors in the petroleum industry. The funding process/decision making is similar to other joint industry research programs.

**Qatar National Research Foundation Research Grant:** In the case of proposals submitted to Qatar National Research Foundation, the lead PI has to be affiliated with a submitting institution in Qatar (not necessarily TAMU) and approximately 60% of the fund has to be spent in Qatar. The rest of the PIs can be from anywhere else in the world as long as the lead PI is from Qatar.

**Crisman Institute (external funding source with internal competition):** The Crisman institute at TAMU was funded by the petroleum industry (10 – 20 companies, this numbers changes every year). The submitted proposals by the faculty were reviewed by the industry members (technical people from 10 – 20 companies, there can be many reviewers from each company). The Crisman committee in the petroleum engineering department was then responsible for selecting the grant winners based on the votes/rankings from the industry members (acceptance rate of approximately 30%, to the best of my knowledge).

**Texas Oil and Gas Institute:** Texas Oil and Gas institute is part of the UT system. I considered this fund in the industry category, because the research project, proposal, budget, reports, and funding process are very similar to my industry projects (Category A). I submitted a proposal with specific budget, tasks, and timeline to Texas Oil and Gas Institute. This project has a research agreement like other industry-funded projects. They did not issue an RFP, but they have established similar collaborations with other research teams and institutions. To the best of my knowledge, every other faculty is eligible to apply, similar to industry funds. Technical employees of Texas Oil and Gas Institute review the proposal and make decisions.

**Skoltech Center for Research:** A new Russian university, Skoltech (Skolkovo Institute of Science and Technology), called for proposals in 2013, asking well-established universities put together both a research and teaching program for them. A senior faculty at the Petroleum Engineering department of TAMU, Dr. John Killough, was the lead PI for this proposal. He asked me and five other faculty to serve as Co-PIs and prepare technical proposals. This proposal was prepared in collaboration with other universities. The proposal was reviewed and approved by representatives from Skoltech Center for Research. As I clarified in my research statement, my part in this project was terminated after I left TAMU.



# EXHIBIT 9



COCKRELL SCHOOL OF ENGINEERING  
THE UNIVERSITY OF TEXAS AT AUSTIN

*Department of Electrical and Computer Engineering • Engineering Science Building  
1 University Station C0803 • Austin, Texas 78712-0240 • (512) 471-6179 • Fax (512) 471-3652*

March 25, 2019

Chairman Brian Evans and  
Members of Committee of the Council on Academic  
Freedom and Responsibility  
University of Texas at Austin  
Office of the General Faculty  
West Mall Office Building 2.102  
Austin, TX 78712

***Via Email***

Re: Appeal of Evdokia Nikolova, Ph.D.  
Assistant Professor, Department of Electrical and Computer Engineering  
Cockrell School of Engineering

Dear Chairman Evans and Committee Members:

I respectfully appeal the denial of my tenure and promotion. The decision to not promote in my case comes in spite of:

1. A near unanimous vote from the Department of Electrical and Computer Engineering (ECE) Budget Council in favor of my promotion and tenure (32 Yes, 1 No, 2 Abstain);
2. Unanimous vote from the Associate Professors (10 Yes, 0 No, 0 Abstain);
3. Strong support from my Department Chair, Professor Ahmed Tewfik, who “strongly endorse[d]” my promotion and tenure, stating that I compare “very favorably” to my “most prominent peers at the first-tier departments in Electrical and Computer Engineering, such as MIT, Stanford, the University of California Berkeley, the University of Illinois Urbana-Champaign (UIUC), Georgia Tech, Caltech and Princeton.”
4. A unanimous vote in favor of tenure from the School of Engineering’s Tenure and Promotion Committee (7 Yes, 0 No, 0 Abstain);

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5. Strong support from all external reviewers who are prominent professors at other top institutions, including Professor Milhalis Yannakakis, Columbia University and a member of the National Academy of Engineering, (nominated by the ECE Department) (“strong record of solid research results” and a “rigorous approach to model the problems and address them mathematically and algorithmically.”), Professor Patrick Jaillet, Massachusetts Institute of Technology, (“over a fifteen-year period, I would put her in the top 20% of all those I have evaluated and subsequently received tenure” and “her record is on par with recently tenured cases that I have been asked to review (at Georgia Tech, USC, MIT and Northwestern.)
6. I am serving in my seventh year as an assistant professor, four and a half of which will have been at UT Austin, two and a half previously at Texas A&M.
7. At the time I was offered a position at UT Austin as an assistant professor, I was unequivocally told by my department chair that my prior in rank experience would count and that I would be able to go up for tenure at or around my normal time clock, which began in Fall 2011. My clear understanding was that I would be evaluated at a normal tenure standard in a normal time (5-6 years) frame, not a different, higher bar, at the time I went up.
8. The dean of the School of Engineering’s recommended against what she considered “early promotion” but specifically stated “[i]f this were an up-or-out case, I would likely agree with the recommendation of the Promotion and Tenure committee.”
9. Others in my department and the School of Engineering have been held to different, lower standards than I was, including numerous male colleagues and a female colleague who unlike me, has not been pregnant while at UT.

The denial of tenure in my case results from procedural violations and errors (including errors in fact, omission and emphasis) under the University’s standards and commonly accepted professional standards for promotion and tenure. It also raises questions of equity and different treatment based on gender and pregnancy. I ask that my case be reviewed consistent with the same standards that are normally applied to other candidates and that the decision to deny tenure and promotion be reversed. The violations and errors in my case include:

1. **The dean’s statement that mine would be an “early promotion” and imposing a higher standard than if it were my “up-or-out” year is incorrect and inconsistent with the standard applied to other faculty members in my department and the school of engineering.**

At the time UT Austin made me an offer, I had been working as an assistant professor at Texas A&M for two years, since the fall of 2011. In discussions with ECE Department Chair Dr. Ahmed Tewfik (who remains chair at this time) during my interview and around the time UT

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Austin made the offer, I was unequivocally told that my prior in rank experience would count and that I would be able to go up for tenure at or around my normal time clock, which began in Fall 2011. My absolute and reasonable understanding was that I would be evaluated at a normal tenure standard in a normal time (5-6 years) frame, not a different, higher bar, at the time I went up.

UT Austin offered me the position of assistant professor in the summer of 2013, however, UT gave me a January 2014 start date, not at my request. Dr. Tewfik explained that since I was already working as assistant professor at Texas A&M, he wanted to be professional and “nice” to A&M and not take me away with too short of a notice. With the assumption that the timing of my tenure consideration at UT would not be affected, I agreed and began working at UT Austin in January 2014.

This academic year is my eighth year as an assistant professor and marks five and a half years at UT Austin. If I had started at UT one semester earlier, in Fall 2013, this academic year would have been my “up-or-out” year, for which Dean Wood states she “would likely agree with the recommendation [for tenure] of the Promotion and Tenure committee.”<sup>1</sup> Ultimately, my more advanced standing as an assistant professor for two years, compared for example to my ECE colleague, Dr. Mohit Tiwari, has been used against me. Dr. Tiwari started at UT one semester earlier than I did, beginning in the fall of 2013 following his postdoctoral fellowship. Although Dr. Tiwari has two years less experience as an assistant professor than I do, he was considered and approved for tenure this year, his “up-or-out year.” Thus, having higher qualifications with two full years more as an assistant professor, but starting one semester later, ironically put me behind Dr. Tiwari on the UT clock and resulted in Dean Wood using a different, higher bar for my “early” application, whereas she “likely would agree” with my promotion if this were my “up-or-out” year.<sup>2</sup>

Other faculty within the ECE department and the School of Engineering have been held to different more lenient standards and I am being held to a higher bar, even in cases considered “early promotion.”

#### **A. Dr. Zoya Heidari**

In a particularly glaring example within the School of Engineering, last year another professor in a similar situation went up for tenure “early” and was treated completely differently than me.

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<sup>1</sup> I was also allowed an extension due to my pregnancy and birth of my first child in 2015. Thus, technically my “up-or-out” year will not occur for two more years.

<sup>2</sup> As discussed further below, a more lenient, lower standard was applied for Dr. Tiwari. His tenure application presents a less-accomplished record than mine in the area of teaching and he has lower student evaluation scores than mine, which was one of the two stated concerns in recommending denial of my promotion. Importantly, I mean no disrespect to Dr. Tiwari or any of the other faculty members mentioned in this letter when comparing their tenure applications to mine. I have great respect for Dr. Tiwari and all other colleagues mentioned, but feel it is important to make comparisons to ensure that my application is considered fairly and accurately.

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Dr. Zoya Heidari from Petroleum Engineering was promoted in 2018 to associate professor with tenure. Dr. Heidari had served as an assistant professor at UT Austin for two years, after working for four years at Texas A&M. Thus, under the apparent standards of UT Austin and the dean of the College of Engineering, Dr. Heidari's application would be considered "early." If the same standards were applied as in my case, she would be subject to a more rigorous examination and a higher bar. However, this was not the case. The Dean's Assessment for Dr. Heidari states:

One may ask why Dr. Heidari is being considered for promotion at this time, when she has not yet reestablished her research program at UT. A commitment was made when she was recruited from Texas A&M that her promotion case would be considered in a timely manner.

This exact same commitment was made to me when I was recruited to UT Austin. There was also absolutely no suggestion that a different, higher standard would be applied if I went up for tenure in a timely manner. Nonetheless, no such recognition was made in the dean's assessment and instead, by the dean's own statement, a higher standard was applied for me. With Dr. Heidari, however, under the exact same circumstances, a heightened standard was not applied and, in fact, a more lenient standard was.

Regarding teaching, one of the two concerns raised as reasons for the denial of my promotion, the Dean's Assessment for Dr. Heidari concluded she is "a dedicated teacher." On the other hand, the Dean's Assessment in my case calls my teaching record "modest." In comparison with Dr. Heidari, however, my teaching record is stronger than Dr. Heidari's. The Dean's Assessment for Dr. Heidari states that her undergraduate teaching scores are below the median. As discussed further below, mine are above the median for the undergraduate course I taught. The Dean's Assessment for Dr. Heidari specifically points out that a peer teaching reviewer offered her very specific feedback regarding areas for improvement. My peer teaching reviewers stated that I was "an outstanding young professor," they found my "approach, blending intuition, motivation and also rigorous derivation, to be very effective," and my budget council stated my teaching record "clearly exceeds the expectations for an Assistant Professor in the Department of Electrical and Computer Engineering."<sup>3</sup>

With regard to funding, the other area specified as a reason for denial of my "early" promotion, the Dean's Assessment for Dr. Heidari states that "[h]er share of research funding at Texas A&M exceeded \$3.4 million, which is a remarkable amount. However, the level of peer-review for these grants is not clear." In my assessment it was recognized that my funding has come from "highly competitive sources."<sup>4</sup> The Dean's Assessment further notes that Dr. Heidari "has not

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<sup>3</sup> As discussed further, the Dean's Assessment does not mention my peer teaching evaluations, the many positive and glowing student comments, the budget council's strong review and endorsement, or my chair's extremely positive assessment of my teaching.

<sup>4</sup> My total funding amount of \$1.8 million cannot be compared to Dr. Heidari because the standards for the amount of funding in our different research areas are completely different. For theoretical research like mine, the standard is generally less than half that of applied areas and as such, my funding record is actually very strong (as mentioned in my external letters).

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received any federal research funding,” while I received highly competitive federal funding, including the NSF CAREER award in 2014, which is among the highest honors for assistant professors. In terms of funding patterns, the Dean’s Assessment for Dr. Heidari observes that she has obtained almost all her funding during her prior years at Texas A&M, and only \$200,000 (less than 6%) of funding during her past three years at UT Austin. The Dean’s Assessment gives great leniency to Dr. Heidari concerning funding, stating “[t]he global decrease in oil prices has reduced Dr. Heidari’s ability to secure research funding from industry at UT . . .” and “[t]he department budget council and I do not believe that the global downturn in oil and gas prices should be the deciding factor in the duration of her probationary period at UT.” The Dean’s Assessment in my case, however, penalizes me for having been awarded significant funding before working at UT Austin and raised perceived questions about the sustainability of my funding after coming to UT. (As discussed below, I have received approximately \$1.1 million at UT Austin, almost half (46% of which was obtained in/after 2017, much more recently than Dr. Heidari).

My research record is also stronger than Dr. Heidari’s by multiple metrics.<sup>5</sup> One of Dr. Heidari’s external recommenders stated that “[m]y only advice would be for her to consider aiming to publish some work in higher-profile or more general journals with a broader readership: at present most papers are published in somewhat specialist petroleum publications.” In contrast, all of my letters and even the Dean’s Assessment speak of my strong publication record in highly selective conferences and high-impact journals, such as Operations Research, which has a very broad readership. Additionally, some of Dr. Heidari’s eight external letters do not appear to be from peer institutions, such as one from the University of Houston. All nine of my letters are from highly regarded scholars at peer institutions. Dr. Heidari has an h-index of 11 (Google Scholar) with 372 citations. I have an h-index of 17 (Google Scholar) and 994 citations. In spite of our records, the Dean’s Assessment for Dr. Heidari called her “an outstanding researcher” while the Dean’s Assessment for me generally described me as simply having “a strong publication record.”

Ultimately, the same commitments were made to both me and Dr. Heidari to consider our cases for promotion in a timely manner based on our prior years of service as an assistant professor. There was never any indication that a different standard would be applied to me because of this. In spite of these commitments, Dr. Heidari was promoted without regard to a higher standard for “early” promotion and in spite of a demonstratively less-accomplished record. I was denied promotion, specifically held to a heightened standard, and it was acknowledged that if this were “an up-or-out case,” the dean’s recommendation would likely have been to promote.

It should be noted that unlike me, Dr. Heidari has no children and has never been subject to pregnancy and tenure clock extension due to childbirth. My first pregnancy in 2015 and modified instructional duties were specifically noted in the Dean’s Assessment. I became pregnant during the fall of 2015 and was granted an extension to my probationary period for the

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<sup>5</sup> Similar to funding, it is perhaps unrealistic to compare absolute numbers in research, but the high-level pattern reflects my stronger research record.

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birth of my first child, Julian, in March 2016. I also became pregnant a second time in the Fall semester of 2017 and had my daughter, Elitza, in June 2018.

### **B. Dr. Sujay Sanghavi**

ECE Professor Sujay Sanghavi went up for promotion in 2013-2014 with one year of prior assistant professor experience from Purdue (compared to my two years at A&M) and four years at UT Austin (compared to my four and a half, not including the 2018-19 academic year). In spite of the fact that this would be an “early promotion” if the standard applied to me was applied to Dr. Sanghavi, the Deans Assessment for Dr. Sanghavi (Appendix 5) makes absolutely no reference to an “early” or “accelerated” promotion or of a different, higher standard being applied to him.

With regard to teaching, one of two areas cited for denial of my “early” promotion, Dr. Sanghavi’s student evaluation scores across the board were lower than mine, including a 3.37. Dr. Sanghavi’s Dean’s Assessment further states that with regard to teaching, the budget council “recognized the need for improvement at the graduate level.” In my case, the budget council made no such negative comments for a “need to improve” and instead described me as “passionate about teaching,” that I employ “multiple strategies to increase and improve [my] already high effectiveness,” and stated that my “teaching record clearly exceeds the expectation for an Assistant Professor in the Department of Electrical and Computer Engineering.” The Dean’s Assessment for Dr. Sanghavi states “his performance as a teacher has been adequate.” The record clearly shows that Dr. Sanghavi’s teaching is demonstrably less successful than mine, yet he was approved for early promotion, whereas I was not and teaching was identified as a primary reason.

Additionally, in the other area cited as a reason for my non-promotion, funding, Dr. Sanghavi’s total funding (his share) was \$2 million. My total funding was only slightly less, at \$1.8 million. The Dean’s Assessment for Dr. Sanghavi also refers to Dr. Sanghavi’s “solid commitment to service both within the University and to the profession.” My level of service to the university is as high if not higher than was Dr. Sanghavi’s. Like him, I was actively engaged in student recruiting and admissions, as well as other activities and workshops as part of the University. My service to the profession is significantly higher than Dr. Sanghavi’s was when he was approved for tenure. I have served on the technical program committees for numerous leading conferences and workshops and also have been a co-organizer for multiple professional workshops, including the very high-profile role as co-organizer of the Simons Institute’s semester on Real-time Decision Making in Spring 2018 at UC Berkeley. Ultimately, comparing my record and tenure application to that of Dr. Sanghavi shows that I was scrutinized more harshly and held to a higher standard than my male colleague in spite of having a comparable record.

### **C. Dr. Alex Dimakis**

In the ECE Department, Professor Alex Dimakis, went up and was approved for promotion in the 2014-2015 academic year, after only one and half years at UT. Dr. Dimakis had previously worked three and half years as assistant professor at the University of Southern California, and



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only one and half years at UT (compared to my four and a half, not including the 2018-19 academic year). However, the Dean's Assessment for Dr. Dimakis (Appendix 2) discounted the issue of "early promotion" stating "[t]his case is considered to be early if only the time at UT is considered. However, if this case is successful and if his time at USC is considered, Dr. Dimakis will have served as an assistant professor for a total of six years." While one of the two reasons offered for the denial of promotion in my case was my research funding, the Dean's Assessment for Dr. Dimakis notes his share of funding totals \$1.8 million – the same as mine. His assessment also positively cites to at least two grants he received prior to coming to UT, including an NSF CAREER award and a Google Research Award – also the same as me. His Dean's Assessment states that his share of funding while at UT Austin was approximately \$1.1 million, but does not indicate whether the \$1.1 million was initially awarded or more generally received while at UT Austin. My share of grant funding that I have been awarded and received while at UT is comparable, at approximately \$1 million.

#### **D. Dr. Mohit Tiwari**

As discussed above, my male colleague Dr. Tiwari went up for and was approved for tenure and promotion this year (with two years less experience as an assistant professor) at the same time that I was denied (Dr. Tiwari's record is in Appendix 5a). Regarding teaching, Dr. Tiwari had two of the lowest student teaching scores of 3.57 and 3.50 among faculty who have recently received tenure. Those scores are significantly lower than my two lowest scores of 3.72 and 3.92. The Dean's Assessment for Dr. Tiwari notes that his instructor ratings have "oscillated between 4.5 and 4.6" whereas mine have been much more consistent ranging from 3.7 to 4.3. Additionally, the Dean's Assessment for Dr. Tiwari understandingly offered as an explanation that his low scores (3.57 and 3.50) corresponded to when he had the largest number of students (78) in his class. No similar consideration was acknowledged in my assessment. For the record, my lowest score of 3.7 was received at a time when I was teaching two sections during the same semester with a total of 134 students. Additionally, my class sizes overall were 50% larger than Dr. Tiwari's with a 49 student average versus Dr. Tiwari's 32 student average. Also, it was not recognized that during the semester in which I received a 3.72, I received a rating of 3.92 in the same class taught at the same time. Finally, it was also not considered in my assessment that I was pregnant in that same semester. As recognized by others, pregnancy can and does impact student perceptions of teaching effectiveness and teaching evaluations.

The Dean's Assessment also offers support to Dr. Tiwari stating that he has made changes to improve student satisfaction. In my assessment and it was stated that I do not make such changes to improve. This is simply incorrect. My Teaching Statement clearly states that I attempt to respond to student input. The Budget Counsel's report stated that "the peer observations highlight multiple strategies that Dr. Nikolova has employed (e.g. frequent quizzes, lecture style, etc.) that aim to increase student engagement and improve her already high effectiveness." My chair's letter of support also cites that I made "transformative changes" to the undergrad course I taught which other instructors have adopted.

As discussed above, Dr. Tiwari was considered a normal application and I was considered an "early application" even though I have two more years of service as an assistant professor and



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have only one less semester of service at UT. Nonetheless, the preferential treatment for Dr. Tiwari and the heightened scrutiny I received are not reasonable and cannot be explained by calling mine an “early” application. Significantly different standards were applied to my male colleague and errors were made in the review of my application.

**3. The extension for my pregnancy and childbirth has been inappropriately and punitively counted against me.**

In addition to using my prior years of experience (and consequently less time at UT Austin) against me, the fact that I was pregnant and accepted a pregnancy extension has also been counted against me and resulted in the higher standard for “early promotion.” I was granted an extension to my probationary period for the birth of my first child in March 2016. While an extension allows a tenure track faculty member an additional year before they are required to go up for promotion, it was my understanding that such an extension is intended as an accommodation for the birth of a child (or other qualifying condition). The extension is meant to help a faculty member and was never intended to create a different standard (essentially a penalty) for faculty members who accept an extension and go up for tenure before their extended “up-or-out” year. As the Faculty Handbook for the College of Natural Sciences states, “There is no downside to the request and you can decide later to go up for promotion at the earlier time. The extension will not affect the way your file is reviewed during the P&T process.”<sup>6</sup>

The dean’s comment that “[i]f this were an up-or-out case, I would likely agree with the recommendation of the Promotion and Tenure committee” together with her direction that I not apply again for tenure for two more years reflects that she is considering my extension due to pregnancy and child birth and applied a different, higher standard because my application is “early.” In her letter informing me of her decision, she stated that “[a]lthough promotion was not approved at this time, your case may be considered again in your up-or-out year.” (Appendix 7.) The dean made it clear that this meant I should wait for at least two more years (which would include my pregnancy extension) in a discussion with ECE Department Chair Tewfik. (Appendix 8.) The clear impact of her combined statements is that my tenure application would be sufficient now if this were my “up or out year,” but because I was granted an extension for pregnancy and child birth, I was subjected to different standards and must wait until the extension year has expired before going up for tenure again.

Ultimately, if I were to follow the deans’ direction, *I will have served as an assistant professor for nine years* before being potentially considered again for tenure. Such a prolonged service in

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<sup>6</sup> [https://cns.utexas.edu/images/CNS/Deans\\_Office/Faculty\\_Affairs/Faculty\\_Handbook/05f\\_Extension\\_probationary\\_period.pdf](https://cns.utexas.edu/images/CNS/Deans_Office/Faculty_Affairs/Faculty_Handbook/05f_Extension_probationary_period.pdf) While the Faculty Handbook for the College of Natural Sciences does not literally apply to the College of Engineering, the handbook’s comment that an extension for childbirth will not affect the way a tenure file is reviewed (or be used against an applicant) is based on the exact same UT Austin extension policy and certainly reflects both the spirit and letter of the policy. Nothing in the policy provides that an extension recipient will be held to a different, higher standard if they go up before their extended “up-or-out” year. See HOP 2-2020; UT System Rules 31107, Sec. 5.1(b).

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a tenure track position before a tenure decision is unheard of among my colleagues in ECE, and likely unusual across the university, particularly where, as here, she has been overwhelmingly found deserving of tenure by her department, department chair, budget committee, the school's tenure and review committee, as well as numerous, prominent external reviewers from top tier institutions.<sup>7</sup>

**4. University policies do not provide a higher standard for “early promotion.”**

None of the university's policies provide or even support that a different, higher standard for tenure should be applied if the application is considered “early” or accelerated. HOP 2-2160 sets forth the standards for promotion, and specifically does not include any notice or provision that the standards are different for “early promotion.” Rather, the rule specifically provides that a faculty member may go up for tenure during any year of their probationary period before their “up-or-out year,” but there is absolutely no suggestion that a different or higher standard should be applied.

Section A(3)(b) of the General Guidelines states that a recommendation for promotion to associate professor normally is considered in the sixth year of the individual's service as assistant professor. While the guidelines state that “[c]ases considered before the sixth year in rank are accelerated and must be explained . . .,” nothing suggests that different standards apply in an accelerated case than in an “up-or-out” case. In my case, my application for tenure before my up-or-out year was thoroughly explained and justified by the department chair, the Budget Committee, the School's Promotion and Tenure Committee, all external reviewers: *I meet the standards for promotion and tenure*. Even the dean essentially acknowledged this, saying she would likely agree with promotion – if this were my “up-or-out” year.<sup>8</sup>

**5. An additional external letter of support was received prior to the decision to deny tenure but was not placed in my tenure file or considered.**

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<sup>7</sup> Although I understand that it was possible to “rescind” my pregnancy extension, the deadline was February 1, 2019, before I was informed on February 16, 2019 of the decision to not promote. I would have gladly rescinded the extension year last year but had no idea of the bias against having such a year or that it would ultimately be used as a penalty to apply a higher standard for an “early” application and to prevent me from applying again for tenure until my final/pregnancy extended “up-or-out” year, which again will be after nine years of service in the rank of assistant professor.

<sup>8</sup> Notably, the guidelines do not state that the service as an assistant professor must be at UT Austin. While HOP 2-2010 provides that academic service at other institutions does not count towards a faculty member's probationary period, the rule does *not* provide that UT may not consider a faculty member's academic accomplishments at other institutions. Rather, the rule simply guarantees that normally, a tenure track faculty member at UT Austin will have a minimum of seven years before they can be terminated for failure to obtain tenure. The rule is clearly intended to benefit faculty members, not to penalize them for service at another institution.

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Prof. Manuel Blum, formerly at Carnegie Mellon and UC Berkley, submitted an additional letter of strong support dated January 8, 2019, which should have been included in my promotion dossier. Appendix 1. Professor Blum is one the most influential computer scientists in the world, a member of the National Academy of Science, and a recipient of the Turing Award, the highest distinction in computer science, regarded as “the Nobel Prize for computing.”<sup>9</sup>

**6. The Dean’s Assessment Included Incorrect Information and Assumptions About My Research.**

Uniformly, my department chair, the faculty in my department, and all external reviewers overwhelming found that my research merited tenure. The Budget Council in its report stated that:

Assistant Professor Evdokia Nikolova leads a world-class research program . . . Dr. Nikolova has made foundational contributions in understanding the resulting equilibria, with important implications in many areas, e.g., the design of road tolls. She has a solid publication record, with 30 conference papers and 4 journal papers. Her work has received high recognition in academia (e.g., NSF CAREER Award 2014) and industry (e.g., Google Faculty Research Award 2013). Dr. Nikolova’s research accomplishments clearly support her promotion to Associate Professor with tenure. Her publications and awards amply demonstrate that she is deserving of promotion.

The Dean’s Assessment also generally acknowledged my successful research and publication record. Nonetheless, the recommendation against “early” tenure was based partially on stated concerns about the sustainability of my research program. These perceived concerns are not accurate or based on correct factual information.

As an assistant professor, I have received four very competitive National Science Foundation (NSF) grants, including NSF CAREER grants, NSF’s “most prestigious awards in support of early-career faculty.”<sup>10</sup> I was a Principal Investigator (PI) on all but one of these NSF grants. I also received one very competitive Google Faculty Research Award. The total amount of my research funding during as assistant professor to date is \$1,808,525.<sup>11</sup> This record is substantially above that of a good number of my research peers who received tenure recently in peer institutions. It also exceeds that of most all of the faculty members of ECE department who have received tenure in the past eight years, including Prof. Ali Yilmaz tenured in 2012 with

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<sup>9</sup> Dasgupta, Sanjoy; Papadimitriou, Christos; Vazirani, Umesh (2008). Algorithms. McGraw-Hill. ISBN 978-0-07-352340-8., p. 317; Brown, Bob (June 6, 2011). "Why there's no Nobel Prize in Computing." Network World.

<sup>10</sup> [https://www.nsf.gov/funding/pgm\\_summ.jsp?pims\\_id=503214](https://www.nsf.gov/funding/pgm_summ.jsp?pims_id=503214)

<sup>11</sup> In my dossier I inadvertently stated that my total funding received from \$1,650,108, however, the correct amount is \$1,808,525. The error resulted from an unintentional understatement of my NSF CAREER of \$448,123.00 whereas the correct amount is \$561,540.00 (\$113,417 higher). I also did not include \$45,000 of WNCG affiliate funding in annual installments from 2014 until 2018 (since I did not realize it counts towards my total).

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\$1,116,000 and promoted to full professor this year with \$1,833,500 (a *full professor* promoted this year with the same funding as me), Prof. Andreas Gerstlauer tenured in 2014 with \$1,385,000 and notably Prof. Alex Dimakis who was tenured “early” in 2015 after 1.5 years at UT, with \$1,793,000. My funding was equivalent to that of Prof. Vijay Janapa Reddi tenured in 2017 with \$1,811,000 who works in an applied area with a higher funding standard (versus that of my theoretical research area).

A comparison with the four research peers recently awarded tenure in peer institutions, (the individuals were listed in my department chair’s letter of strong support as well as the Budget Council assessment of my research) shows that my funding is higher than all four, and substantially higher than two of the four who only received NSF CAREER grants prior to becoming tenured. See the table below for a summary and Appendix 11 for more detail.

Name, University	Year PhD	Year tenured	Grants pre-tenure	Grants total	Notes
Evdokia Nikolova, UT Austin	2009		NSF CAREER 3 other NSF Google WNCG	\$1,809K	
Shaddin Dughmi, USC	2011	2017	NSF CAREER	\$ 516K	Less than 30% of my funding
Vineet Goyal, Columbia	2008	2017	NSF CAREER 2 other NSF Google, IBM, Adobe	\$1,120K	Less than 2/3 of my funding, weaker research record (less publications, less citations)
Anup Rao, U Washington	2007	2016	NSF CAREER 3 other NSF Sloan	\$1,514K	significantly smaller research group (2 students, 1 postdoc vs 5 students, 2 postdocs for me)
Seth Pettie, Michigan	2003	2012	NSF CAREER	\$ 480K	Less than 30% of my funding

Regarding sustainability of my research funding, Dean Wood’s Assessment states that “approximately 70% of her funding was awarded during her first three years in rank” and that “[o]nly one grant has been awarded in the past four academic years.” This is incorrect and distorts both my current and past funding. In 2017 I was awarded an NSF grant of approximately \$480,000. Additionally, although my NSF CAREER Award was announced in 2014, it was paid out to me (UT) in five installments<sup>12</sup> *over each of the past five academic years*. This is typical as the purpose of the NSF CAREER is to support one’s entire career as assistant professor. As of yet, I have not started using my 2017 NSF grant (which runs through 2021 and can likely be extended for an additional year through 2022) and I am still spending my NSF CAREER for which I am in the process of obtaining the standard 1-year no-cost extension. I

<sup>12</sup> My NSF CAREER installments were: (May 2014) \$ 188,888, (Sep 2015) \$ 26,127, (Aug. 2016) \$ 131,718, (Jun 2017) \$ 101,390, (July 2018) \$ 113,417 for a total of \$ 561,540.

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also have received WNCG affiliate funding<sup>13</sup> in *each of the past five academic years*, which I unknowingly omitted from my promotion record.

From the total \$1.8 million of my share of grants, I have spent approximately \$1.2 million over the past seven-and-a-half years, averaging much less than \$200,000 per year. That is directly in alignment with my current spending. Further, as a theoretical researcher our groups are relatively small, with my average group size being four students.

As all faculty know and appreciate, the funding landscape in academia changes continuously, as the Dean acknowledges and gives leniency and early promotion (3 years early) in Dr. Heidari's case. As a junior faculty I was fortunate to receive significant funding. Junior faculty should be congratulated and not punished for their early success, nor held to an artificial higher standard because of this success. The grants I obtained in my first three years in rank were more than sufficient to support my research agenda for the eight years I have been an assistant professor so far. Nevertheless, I attained further funding in 2017 that I have not yet used and that will sustain my research group for a number of years in the future. As of March 2018, based on my past spending method and projected expenses, I will have about three years left with my current funding alone. Given my 100% success rate so far with NSF and Google grant applications as a lead PI, there is absolutely no reason to doubt that I will be able to obtain additional grants in that time frame to continue sustaining my group once my current grants are spent.

7. **The Dean's Assessment includes incorrect information about my student evaluation teaching scores, teaching statement and presents an unbalanced, inaccurate description of my teaching record generally.**

My students, my peers who have reviewed me, the faculty in my department on the Budget Committee and my department chair all gave very strong assessments of my teaching, my passion for it and my commitment to my students. Nonetheless, the Dean's Assessment presented incorrect information about student evaluation teaching scores, teaching statement and presents an unbalanced, inaccurate description of my teaching record generally.

**A. Teaching Scores.**

The dean also referred to a perceived downward trend in my evaluation scores, which is inaccurate. My undergraduate teaching scores for Fall 14, Fall 16 and two Fall 17 sections respectively were 3.95, 3.92, 3.72 and 3.93, in that order. Thus my scores have shown an overall stable trend, which should be expected for an experienced assistant professor (I taught 5 courses at Texas A&M prior to arriving at UT). The only outlier in this group is 3.72, obtained in one section of the class EE360C Algorithms. I taught two sections of that course in one semester (Fall 2017) to a total of 134 students. At the same time and in the same semester that I received the lower rating from one section, I received a parallel rating of 3.93 from the other section. Thus, it is incorrect to suggest a downward trend.

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<sup>13</sup> My WNCG affiliate funding was: \$ 12,000 (Oct. 2014), \$ 16,000 (Oct. 2015), \$ 7,000 (Jan. 2017), \$ 10,000.00 (March 2018) for a total \$ 45,000.

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It is also important to note that my student evaluation scores for EE360C are actually among the highest in the department of all instructors who have taught the course. The Budget Committee Report notes that my scores for this course were in line with the averages of all other instructors. In fact, the data for the course shows I was ranked 3<sup>rd</sup> out of 10 (8% above the median of 3.69) when all instructor's scores for EE360C are considered since 2011, and 3<sup>rd</sup> of 6 (5% above the median of 3.69) when only tenured/tenure-track EE 360C instructors since 2011 are considered. I was 3<sup>rd</sup> out of 13 if all instructors for EE360C since 2005 are considered. Only two full professors that are US-born native English speakers have had higher scores than me. Overall I had better teaching scores than three senior tenured professors,<sup>14</sup> one junior tenure-track professor and all four senior lecturers. I am above the median for my course.

In comparison, Dr. Tiwari (who was awarded tenure this year with two less years of service as an assistant professor than me) was 5<sup>th</sup> out of 8 (3% below median) among all instructors for EE 319K. Dr. Dimakis (who was promoted five and a half years "early" based on time at UT Austin) was 4<sup>th</sup> out of 8 (slightly above median). Dr. Sanghavi (who was promoted one year "early" for time at UT Austin) was 5<sup>th</sup> out of 8 (1% below median) for EE 351K. Dr. Heidari in Petroleum and Geosystems Engineering (who was promoted last year and three years "early" for time at UT Austin) was slightly below median in undergraduate courses. Thus, my student teaching scores were actually better than these peers, including those who were promoted "early," yet teaching and these scores were cited as reasons for my non-promotion.

Additionally, the 134 students that I taught in the two sections of the course in one semester is the largest number students taught in a single semester by any assistant professor who was subsequently tenured in the past seven years, with 73 being the average. See Appendices 12-15 on teaching data. And, among other instructors, the average drop in score when teaching two parallel sections in a single semester is 7% while mine was 2.5%. While I absolutely will continue and strive to improve, there is no factual basis to support an inference of a negative trend or a lack of commitment in my teaching.

## **B. Pregnancy Bias Affects Student Teaching Evaluations.**

An additional and potentially more serious concern is that of pregnancy discrimination if undue emphasis is given to the single lower EE360C score. I was pregnant with my second child in Fall 2017 when I received my lowest 3.72 score. Recent evidence demonstrates that pregnant women tend to receive lower scores compared to their own trend when they are not pregnant. This can be explained via studies on the bias in scores vs physical appearance<sup>15</sup> and is hardly surprising given the often difficult physical ailments that pregnant women go through. At the time of my pregnancy, I was experiencing daily morning sickness and extreme fatigue. I attach

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<sup>14</sup> The first two highest ranked were tenured professors who also happen to be US-born native English speakers. While I am fully fluent in English, I was born and grew up in Bulgaria and have a distinct accent. Studies have shown that students respond less favorably to non-native English speakers. See e.g. <https://www.insidehighered.com/news/2017/11/16/study-finds-student-distrust-those-who-are-not-native-speakers-english>

<sup>15</sup> John Lawrence. [Student evaluations of teaching are not valid](#) from *Academe*, May-June 2018.



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letters from Professor Andrea Liu, University of Pennsylvania (Appendix 18), and Professor Silvana Krasteva, Texas A&M, (Appendix 17) who have also experienced lower teaching scores during their pregnancies.

Additionally, in light of Dean Wood's recommendation to me from Feb.18, 2019 (after the non-promote decision) to wait two more years to improve my teaching scores (see Appendix 8), an especially poignant recent finding pertaining to my case states: "*we find that women receive systematically lower teaching evaluations than their male colleagues. This bias is driven by male students' evaluations, is **larger for mathematical courses**, and **particularly pronounced for junior women**. The gender bias in teaching evaluations we document may have direct as well as indirect effects on the **career progression of women** by affecting junior women's confidence and through the reallocation of instructor resources away from research and toward teaching*"<sup>16</sup> See also letter from Professor Amy Graves on implicit bias.

This naturally begs the question whether I am not unfairly being penalized not only for being a junior woman teaching a mathematical course but in addition for being pregnant? It also begs the question whether the exact same quality and effectiveness of instruction I offered may have yielded higher scores for me had I not been pregnant. Therefore such scores should be scrutinized, and certainly not used as a basis for non-promotion, when assessing my teaching effectiveness. My teaching record based on my student evaluations, peer reviews, the chair's evaluation and the assessment of the budget council, shows my commitment to working with students and providing an excellent learning experience.

### **B. Teaching Statement.**

The dean also raised questions about my commitment to the teaching philosophy of the Cockrell School based on two specific comments in my teaching statement. I respectfully offer that these concerns are inaccurate and misinterpret my Teaching Statement.

The Dean's Assessment focused on two statements in my Teaching Statement in which I discussed teaching assistants. The assessment does so to the exclusion of all other extremely positive assessments I received from my peer reviewers, the Budget Council, my department chair, and the large number of student evaluations. The Dean's Assessment suggested that I stated that teaching assistants were responsible for creating and grading homework. I respectfully state that this perception is incorrect, not based on my actual teaching record, a full and fair reading of my Teaching Statement, or supported by any information in my dossier. I did discuss teaching assistants in statement because this was a real concern and was also reflected in the student evaluations. By no means, however, did I intend to suggest that I do not take responsibility for improving my own performance, or for the actual course work performed by teaching assistants.

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<sup>16</sup> Friederike Mengel, Jan Sauermann, Ulf Zölitz, Gender Bias in Teaching Evaluations, *Journal of the European Economic Association*, Published 10 February, 2018, jvx057, <https://doi.org/10.1093/jeea/jvx057>.  
<https://academic.oup.com/jeea/advance-article-abstract/doi/10.1093/jeea/jvx057/4850534?redirectedFrom=fulltext>



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In my Teaching Statement, in addition to discussing my passion for teaching, I also explained that “I have continued looking for ways to address . . . challenges,” that I “pay close attention” to the reactions of students, and that I find “soliciting direct feedback” is “an invaluable way of being on top of the needs of individual students and my overall effectiveness.” I outlined specific steps I had taken to improve my undergraduate course. I also discussed in my response or rebuttal to the Dean’s Assessment, including Appendix B at the end of the rebuttal (included here as Appendix 9), how I have addressed specific comments on student evaluations for improvement. Without question, I care very much about my students, my teaching, and I will always strive to continue improving. The budget council’s assessment, peer reviews and the department chair’s letter all support this conclusion.

As I explained in my response to the Dean’s Assessment (Appendix 9), I and my fellow instructor co-developed course content and co-supervised the teaching assistants for both sections of the course EE360C Algorithms, a large and difficult course that many upper-level undergraduates are required to take.

I frequently solicited and followed advice from Prof. Christine Julien, another instructor of the same course who won the UT Regents Outstanding Teaching Award (2015) and the Lepley Teaching Award (2014-2015), on what to delegate to teaching assistants and how to run the course overall. I and my fellow instructor provided goals for the assignment, the topic, and the high-level structure. From there, with multiple exchanges, iterations and discussions between me, my fellow instructor and teaching assistants, the assignment was refined down to an explicit set of tasks. My fellow instructor and I reviewed and were responsible for the final assignment. On the homework assignments, I and my fellow instructor provided the goals for the assignment, invited suggestions on sample homework problems from the teaching assistants, and reviewed and finalized the selection and problem details on each assignment. I was highly involved with the student’s homework and programming assignments, take responsibility for them, and did not mean to suggest otherwise.

Without question, I care very much about my students, my teaching, and the dean’s mistaken inference taken from two statements is incorrect and not supported by my teaching record.

### **C. Omission of Information From Dean’s Assessment**

As discussed above, the Dean’s Assessment presented an inaccurate assessment of my teaching. The assessment made negative presumptions about my teaching without mentioning my strong peer teaching evaluations, the many positive and glowing student comments on my student evaluations, the budget council’s strong review and endorsement, or my chair’s extremely positive assessment of my teaching.

- 8. My teaching scores from Texas A&M where I had been assistant professor from Aug. 2011 to December 2013 were erroneously omitted from my promotion file.**

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March 25, 2019  
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My department chair indicated to me that the department would request my teaching scores from A&M but that request apparently did not happen or the information was otherwise not included.

**9. The Dean's Assessment includes incorrect information about my service.**

In the Dean's Assessment, it was stated that the Budget Council expressed concerns about "relatively weak engagement in the department." This is incorrect and the budget council's assessment makes absolutely no statement to this effect, and does not include *any* negative concerns whatsoever. Additionally, the Budget Council voted 9-0 in favor of tenure. The Budget Council Assessment on my service stated that "Prof. Nikolova has made immense contributions to the Department and the University serving in various roles" and goes on to identify my strong record of service and concluded "[i]n summary, Prof. Nikolova has performed service to the University and the professional community that is significantly above the level of an assistant professor."

The dean's comment apparently was based on Department Chair Tewfik's letter of support, which mentioned that that some colleagues had "noted . . . her level of involvement in the department had been lower than average. However, ***this is not a concern*** as it's mainly due to her personal circumstances at the stage of her life." As discussed above, I have been pregnant twice in the last three years and am attempting to raise with the help of my husband my two young children. I also spent a semester away from UT at the Simons Institute at UC Berkley. Neither my department chair nor the Budget Council regarded my level of involvement in the department as a "concern." To the contrary, the chair specifically stated "this is *not* a concern" and the Budget Council stated that "Prof. Nikolova has made immense contributions to the Department and the University."

**10. Denial of My Tenure Raises Concerns Relating to Gender and Pregnancy.**

UT Austin has made a gender equality, diversity and inclusion a goal. The denial of my tenure is inconsistent with those goals and raises questions about whether women, and in particular women who become pregnant and wish to have a family, are treated consistent with those goals.

As a baseline for this discussion, there are 53 tenured faculty members within the ECE Department. 49 of those are men, or 92.5 percent, and only four are women. Since 2014 when I arrived, seven male assistant professors have gone up for tenure and promotion, and all have been approved. Three women, including myself, have gone up for tenure over this same five period, and *all* have been *denied* promotion. This year, I was the only woman among the six promotion candidates from the ECE department. All male candidates advanced and I was the only (female) candidate the university did not advance.

Regarding the suggestion that I did not advance because mine was would have been an early promotion, I believe I have the longest time in the rank of assistant professor of any faculty member considered for tenure or promotion within our department. As discussed above in section 1 of this appeal, numerous male faculty members and another female faculty member

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who has not been pregnant or received an extension on account of childbirth were treated more favorably than I have been.

**11. Requests for Relief:**

**A. Reconsideration Next Year or in Two Years Is Not an Appropriate or Acceptable Remedy**

Requiring me to do more and holding me to a higher standard than all my colleagues who have been promoted after four or five years in the department amounts to inequality in treatment and advancement. Moving the goal posts by an additional two years (or even one year) raises the bar even more. The Dean's Assessment this year essentially recognized that I meet the standards for promotion on a normal tenure clock. In recommending against tenure, the assessment appeared to infer that further upward trends were necessary in funding and research. If I am already performing at a level that merits tenure even by the dean's acknowledgement if this were my "up-or-out" year, asking me to wait and further increase my performance over the next year or two years will even further raise the bar and with higher expectations that no faculty member in my department have ever been asked to meet. Understandably, I also have real concerns that the different, subjective criteria applied to me this year will resurface in unpredictable ways incarnations in the future. I have already spent seven years in rank, and have accomplishments comparable to or better than many colleagues that have been promoted, and being asked to wait for nine (or even eight) years before being potentially considered again is not an appropriate or acceptable remedy.

**B. Clarification of Procedures.**

I respectfully request creating a new procedure for a candidate with a "do not promote" decision to submit Final Arguments to the President in the year of the decision.

**C. Engineering Faculty Handbook**

A "Faculty Handbook" appears to be missing for the School of Engineering. Even though there is a university-wide document "Handbook of Operating Procedures", I believe it is helpful to have, and respectfully request, creation of such a specific "Faculty Handbook" document for Engineering, similarly to the one for CNS here (or adopt and approve the same CNS document for the School of Engineering):

[https://cns.utexas.edu/images/CNS/Deans\\_Office/Faculty\\_Affairs/FacultyHandbook.pdf](https://cns.utexas.edu/images/CNS/Deans_Office/Faculty_Affairs/FacultyHandbook.pdf)

**D. Notice To Current and Potential Faculty Of Different Standards.**

I respectfully request mandatory language be added to UT Contract Offers to Assistant Professors, especially those with prior experience, to clarify how the tenure clock is to be applied. If the tenure process remains as it has in my case and my tenure is not approved, notice should be given that the tenure clock specified is mandatory for consideration with a normal tenure bar and earlier consideration for promotion comes with a significantly higher tenure bar.

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**E. Notice To Faculty Regarding Tenure Extensions For Childbirth.**

If the tenure process remains as it has in my case and my tenure is not approved, I respectfully request mandatory language be added to the form for tenure clock extension (due to childbirth, etc.) to the effect that earlier consideration for promotion comes with a significantly higher tenure bar and that rescinding the extension needs to be done prior to a date in the year of going up for tenure. Additionally, the deadline for rescinding approved extensions is currently February 1 before fall promotion review. In fairness to candidate this should be made after the February 15 notification deadline of current promotion review year. I was explicitly told that childbirth extension year will not harm me, however, it clearly has harmed me in the current decision claiming I am early. If I had known the importance, I would have rescinded it. Additionally, I need to have the possibility to rescind it now for going up this year if I wish. However having learnt of the “do not promote” decision on February 15, 2019 after the deadline for rescinding the childbirth year, I cannot re-apply for tenure this year as an up-or-out candidate and would presumably be held again to a higher bar.

**Conclusion:**

In the event this appeal is not successful, it will affect not only me but other junior faculty and candidates in the same situation – those with prior faculty experience, women, and those thinking of starting a family. It will weaken the ECE Department and the Cockrell School of Engineering which already have very small numbers of women faculty, below that of the national average. I have presented factual, clear evidence of errors and different standards in the decision to deny my tenure and promotion. My hope is that the additional information and clarification will aid in a holistic evaluation of my case and the tenure process generally. I respectfully request that the decision in my case be reversed and that I be recommended for tenure and promotion to an associate professor.

Sincerely,



Evdokia Nikolova



Evdokia Nikolova &lt;eddie.nikolova@gmail.com&gt;

**FW: Promotion of Assistant Professor Evdokia Nikolova to Associate Professor with tenure**

**Lenore Blum** <lblum@cs.cmu.edu>  
 To: Evdokia Nikolova <eddie.nikolova@gmail.com>

Thu, Feb 28, 2019 at 11:44 AM

**APPENDIX 1: BLUM LETTER**

**From:** Manuel Blum <mblum@cs.cmu.edu>  
**Date:** Tuesday, January 8, 2019 at 8:11 AM  
**To:** President Greg Fenves <president@utexas.edu>  
**Cc:** Manuel Blum <mblum@cs.cmu.edu>, Provost Maurie McInnis <provost@utexas.edu>, Vice Provost Janet Dukerich <janet.dukerich@austin.utexas.edu>, "Ms. Carmen Shockley" <cshockley@austin.utexas.edu>, Dean Sharon Wood <swood@utexas.edu>, "Assoc. Dean Gerald (Jerry) Speitel" <speitel@utexas.edu>, "Prof. Ahmed Tewfik" <tewfik@austin.utexas.edu>  
**Subject:** Promotion of Assistant Professor Evdokia Nikolova to Associate Professor with tenure

8 January 2019

To: President Greg Fenves <president@utexas.edu>  
 Cc: Provost Maurie McInnis <provost@utexas.edu>  
 Vice Provost Janet Dukerich <janet.dukerich@austin.utexas.edu>  
 Ms. Carmen Shockley <cshockley@austin.utexas.edu>  
 Dean Sharon Wood <swood@utexas.edu>  
 Assoc. Dean Gerald (Jerry) Speitel <speitel@utexas.edu>  
 Prof. Ahmed Tewfik <tewfik@austin.utexas.edu>

Dear President Fenves,

I am a university professor of Computer Science at Carnegie Mellon University. I met Assistant Professor Evdokia Nikolova last spring at the Simons Institute for the Theory of Computing in Berkeley while I was on sabbatical there: she was an organizer of the Real-Time Decision Making program, where she gave two first-rate talks that I attended: the survey talk "A Brief Introduction to Algorithms, Game Theory and Risk-averse Decision Making" <https://www.youtube.com/watch?v=BOAoD7FWs>, and a research talk on "Risk-averse Selfish Routing" <https://www.youtube.com/watch?v=0JdljgTS9ao>. I understand that she is currently up for promotion to Associate Professor with tenure in the Department of Electrical and Computer Engineering in UT Austin's Cockrell School of Engineering, and that her promotion has been called into question.

Given that Nikolova is highly regarded in her field, that she has excellent recommendations from prominent colleagues at peer institutions, that her department's budget council and the Cockrell School's promotions and tenure committee recommended promotion, I was shocked to hear that her Dean did not agree with these recommendations for promotion. It is even more shocking given the stellar quality of her background and work. She was educated at Harvard, Cambridge University and MIT (PhD in electrical engineering and computer science with PhD advisor the exceptional Professor David Karger). Her research has been published in both high impact journals and peer reviewed conference proceedings. She has received several million dollars in funding for her research from NSF and from industry. In addition, I understand that her research with applications to transportation networks and smart grids is directly related to one of the School's cross cutting themes. Her service to the university (faculty and graduate student recruiting), service on numerous technical program committees, and help in organizing research programs, go well beyond the call of duty for junior faculty. She is also the mother of two young children. You could not find a better role model for your students. By September 2019, she will be 10 years past her PhD, and will have served as Assistant professor (Texas A&M and Austin) for 8 years. To deny her a promotion to Associate Professor with tenure would be mystifying to me, a travesty really.

Sincerely,

UT Austin\_00634

Manuel Blum  
Bruce Nelson University Professor of Computer Science  
Carnegie Mellon University

**APPENDIX 2: DIMAKIS PROMOTION**

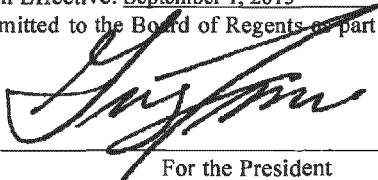
THE UNIVERSITY OF TEXAS AT AUSTIN

Date: 09/17/2014**RECOMMENDATION FOR CHANGE IN ACADEMIC RANK/STATUS**Name: Georgios-Alex (Alexandros G.) Dimakis EID: gd6366 Present Rank: Assistant ProfessorYears of Academic Service (*Include AY 2014-15 in each count*):At UT Austin since: 01/16/2013 In Present Rank: 2.50 In Probationary Status (TT only): 2  
(month/day/year) (# of years) (# of full years or N/A)Primary Department: Electrical and Computer Engineering College/School: Cockrell School of EngineeringJoint Department: - College/School: -Other Department(s): -**Recommendation actions<sup>1</sup>:**By Budget Council/Executive Committee: PromoteVote<sup>2</sup> for promotion 31; Against 0; Abstain 3; Absent 1; Ineligible to vote 0By Department Chair: Promote

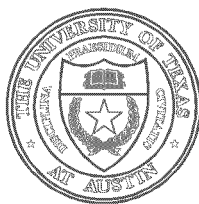
Vote for promotion \_\_\_\_\_; Against \_\_\_\_\_; Abstain \_\_\_\_\_; Absent \_\_\_\_\_

By College/School Advisory Committee: PromoteVote for promotion 7; Against 0; Abstain 0; Absent 0By Dean: PromoteAdministrative Action: Promote to Associate ProfessorDate Action Effective: September 1, 2015

(To be submitted to the Board of Regents as part of the annual budget.)

By:  Date: December 17, 2014  
For the President<sup>1</sup>See "Chart of Recommended Actions" for eligible recommended actions applicable to specific conditions and administrative levels.<sup>2</sup>Record all votes for and against promotion, abstentions by eligible voting members, and the number of absent eligible voting members. The number of budget council/executive committee members ineligible to vote due to rank should also be recorded. Enter zero where it would otherwise be blank.





**THE UNIVERSITY OF TEXAS AT AUSTIN**  
**COCKRELL SCHOOL OF ENGINEERING**

*Office of the Dean • 301 E. Dean Keeton Street, C 2100 • Austin, Texas 78712-2100*

**Dean's Assessment**

Alex Dimakis

Department of Electrical and Computer Engineering

Alex Dimakis completed a Diploma in Electrical and Computer Engineering from the National Technical University of Athens in 2003. He subsequently received an MS (2005) and a PhD (2008) in Electrical and Computer Engineering from the University of California, Berkeley. He was a post-doctoral scholar at the California Institute of Technology for one year. Dr. Dimakis was then appointed as an assistant professor at the University of Southern California, where he served on the faculty for three and a half years (May 2009 to December 2012). He joined the Department of Electrical and Computer Engineering at the University of Texas at Austin as an assistant professor in January 2013. He has been at his current rank at UT Austin for one and a half years. This case is considered to be early if only the time at UT is considered. However, if this case is successful and if his time at USC is considered, Dr. Dimakis will have served as an assistant professor for a total of six years.

A total of ten external review letters were received, of which five were from reviewers selected by the budget council and five were recommended by the candidate. The letter writers are all experts in the field of coding theory and communications and were chosen from domestic peer institutions (Stanford, UC Berkeley, UC San Diego, Duke, and Maryland), industry (Bell Labs), and international universities (Indian Institute of Science, Toronto, Chinese University of Hong Kong, École Polytechnique Lausanne). One referee is a member of the National Academy of Engineering.

Teaching

During his time at UT Austin, Dr. Dimakis taught one undergraduate course (EE 313, *Linear Systems and Signals*, twice) and one graduate course (EE 381V, *Advanced Coding Theory*, once). He also taught four graduate level courses at the University of Southern California. These courses were on coding theory, advanced coding and information theory, probability, and message passing theory.

Based on student comments and peer evaluations, it can be concluded that Dr. Dimakis is an excellent teacher. His undergraduate instructor ratings range from 4.0 to 4.4. The 5-year average instructor rating for assistant professors in the Cockrell School of Engineering is 4.1. Dr. Dimakis' teaching performance is therefore better than the CSE average scores. His average course rating for EE 313 is 3.90. His instructor rating in the graduate course is 4.6, which exceeds the average for assistant professors in the Cockrell School (4.08). His average course rating for EE 381V is 4.47. Dr. Dimakis' instructor ratings at USC ranged between 4.4 and 4.8 on a 5-point scale.

The peer assessment of Dr. Dimakis' teaching emphasizes his energetic teaching style and his ease of communication and is consistent with positive student comments the candidate has received in his courses.

Research

Dr. Dimakis' research is in the areas of information theory, coding theory, machine learning and networking. He has made important contributions to the theory and implementation of distributed storage codes especially to solve problems encountered when erasure codes are used to protect information stored in a distributed manner over multiple machines in a data center. Dr. Dimakis has continued the trend-setting research in the area of distributed storage that he started at USC and during his time at UT Austin has made forays into other areas such as the analysis of gossip algorithms and exploring the connection between linear programming (LP) based decoding of binary codes and compressed sensing.

Dr. Dimakis has published ten papers at UT Austin, and a total of 25 papers in-rank when his time at USC is included. Over his entire career, he has published 29 journal publications. Most of his publications are in various *IEEE Transactions* which are acknowledged to be among the most prestigious in his field. He has also written 44 refereed conference papers while in rank, of which twelve were presented during the time Dr. Dimakis has been at UT Austin. Over his career, he has published 60 papers in refereed conference proceedings. A number of his publications are with graduate students both here at UT Austin and at USC.

Some of his research highlights include: (1) Dr. Dimakis' publications have been cited 3632 times with an h-index of 30 (Google scholar) since 2009. The budget council presented a comparison of Dr. Dimakis' research productivity to other recently promoted faculty members, which indicates that Dr. Dimakis is more productive and better cited than any of the members of the comparison group. (2) Dr. Dimakis has been invited to give several talks at universities and symposia. He was the keynote speaker at the IEEE International Symposium on Network Coding. He was invited to make a presentation at the Network Information Theory meeting at the Banff International Research Station.

Dr. Dimakis has received funding from eleven research grants over the course of his career and is the PI on eight of those grants. He has been awarded seven research grants during his time at UT Austin and is the PI on five of those. He has raised over \$3.4 million in research funding over the course of his career with his share at \$1.8 million. His share of research funding while at UT Austin is approximately \$1.1 million. Prominent research grants include the NSF CAREER award that he received when he was at USC, a Google Research Award that he received in 2012, and a prestigious Young Investigator Award from the Army Research Office (ARO). He has three other awards from NSF. Dr. Dimakis' research is of direct relevance to organizations that are engaged in big data analytics using clusters and cloud storage systems and this is likely to sustain his research program for a long time. In the words of Raymond Yeung (Chinese Univ. of Hong Kong), "*the technology developed by Dr. Dimakis and his students/co-workers has the potential to become the core technology for next generation cloud storage.*"

Dr. Dimakis received exceptionally strong reviews from all the letter writers. Some select comments are presented below:

Dr. Venkatachalam Anantharam (UC Berkeley) writes, "his research in coding for distributed systems has set a veritable hailstorm of research: there are already conferences devoted purely to distributed data storage, and there are many groups around the world working on this topic."

Dr. Alexander Barg (Maryland) writes, "The works of Dr. Dimakis in this area have had a significant impact on the development of coding theory: it is fair to say that to some extent they have shaped subsequent research devoted to coding for data centers."

Dr. Robert Calderbank (Duke, NAE), "If I were to ask a two part question - What was the idea and what difference did it make? - then I would find it difficult to rank anyone ahead of Alex."

Dr. Rüdiger Urbanke (École Polytechnique Fédérale de Lausanne) writes, "Together with some of his colleagues he has created a whole new branch of coding theory that takes into account the unique requirements of this field. This has led to the definition of a research area that is at the same time very beautiful and eminently useful. This does not happen every day!"

#### Advising and Student Mentoring

Dr. Dimakis graduated [REDACTED] at UT and one co-supervised PhD student at USC. He also graduated [REDACTED] at UT and three at USC. He is currently the [REDACTED] While in rank, he has also formally supervised a senior design team comprising five ECE undergraduate students. He also co-supervised an

undergraduate student researcher from Rice University. Dr. Dimakis currently supervises two post-doctoral research fellows.

#### University Service

Dr. Dimakis has served as a member of the ECE Semester Course Evaluation Committee and the CommNetS Pre-Qual Screening Committee for 2014. He has also served on the CommNetS Graduate Admissions Committee for 2013 and 2014. The Budget Council statement observes that service on the Graduate Admissions Committee is a particularly time-consuming commitment. In 2013, he served as program chair of the Winedale Workshop, a one-day event co-organized by UT Austin, Rice University and Texas A&M to facilitate interaction between Texas researchers in the area of signals, systems and communications.

#### Professional Service

Dr. Dimakis is an associate editor of the *IEEE Signal Processing Letters*. He has served on over 15 technical program committees for key conferences in his area (such as ISIT). He has also chaired an IEEE workshop on Emerging Data Storage Technologies in 2012, participated in two workshops sponsored by NSF. Recently, Dr. Dimakis was appointed to the eight member committee that is investigating future directions in information theory. He has served on several funding/review panels for NSF and other international academic organizations. He has reviewed papers for virtually all the top IEEE journals pertinent to his area.

#### Other Evidence of Merit or Recognition

Dr. Dimakis received the Joint Paper Award in 2012 from the IEEE Communications Society and the IEEE Information Theory Society. This is a very prestigious award, with only one paper per year recognized across a wide diversity of journals in the two IEEE societies. He delivered the keynote address at the 2010 IEEE International Symposium on Network Coding. He received a NSF CAREER Award in 2012 and an Army Research Office Young Investigator Award in 2014. He was invited as a school lecturer at the European School of Information Theory.

#### Overall Assessment

Dr. Dimakis is clearly an outstanding researcher who has continued down the path he set at USC and has established a strong research program here at UT. He is engaged in trend-setting research in the area of coding for distributed systems, gossip algorithms, LP decoding and machine learning. He has excelled at teaching and has been complimented by the students for being patient, energetic and an excellent communicator. He has received several prestigious awards that recognize his research credentials. He has performed adequate service to the university and department and has maintained an active role in his profession by serving as the associate editor of the *IEEE Signal Processing Letters*.

I believe that Dr. Dimakis meets or exceeds all expectations for early promotion to associate professor, and support this case without reservation.




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Sharon L. Wood, Dean  
8 November 2014

**APPENDIX 3: GERSTLAUER PROMOTION**

THE UNIVERSITY OF TEXAS AT AUSTIN

Date: 9/4/13**RECOMMENDATION FOR CHANGE IN ACADEMIC RANK/STATUS**Name: Andreas GerstlauerPresent Rank: Assistant ProfessorYears of Academic Service (*Include AY 2013-14 in each count*):At UT Austin since: 9/1/08 In present rank: 6; In Probationary Status (TT **only**): 6  
(m/d/y) (# of years) (# of years)Department: Electrical and Computer Engineering

Other: \_\_\_\_\_

College/School: Cockrell School of Engineering**Recommended action<sup>1</sup>:**By Budget Council/Executive Committee: Promote to Associate ProfessorVote<sup>2</sup> for promotion 26; Against 0; Abstain 0; Absent 8By Department Chair: Promote to Associate Professor

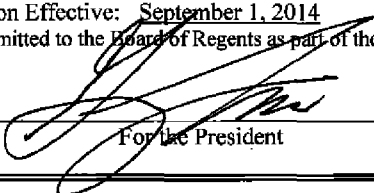
By SBS Executive Committee: \_\_\_\_\_

Vote<sup>2</sup> for promotion \_\_\_\_\_; Against \_\_\_\_\_; Abstain \_\_\_\_\_; Absent \_\_\_\_\_

By Director: \_\_\_\_\_

By College/School Advisory Committee: PromoteVote<sup>2</sup> for promotion 7; Against 0; Abstain 0; Absent 0By Dean: PromoteAdministrative Action: Promote to Associate ProfessorDate Action Effective: September 1, 2014

(To be submitted to the Board of Regents as part of the annual budget.)

By:  For the PresidentDate: 12/16/2013<sup>1</sup>See "Chart of Recommended Actions" for eligible recommended actions applicable to specific conditions and administrative levels.<sup>2</sup>All votes are to be recorded as For, Against, or Abstain. (Note: unexplained abstentions will be interpreted as weak negative votes by the President's Committee.) Also record number of absent eligible voting members.

**Dean's Assessment**  
**Andreas Gerstlauer**  
 Department of Electrical and Computer Engineering

Andreas Gerstlauer received his Vordiplom (BS) and Dipl-Ing (MS) in Electrical Engineering from the University of Stuttgart, Germany in 1991 and 1997, respectively, and an MS and Ph.D. in Information and Computer Science from the University of California, Irvine in 1998 and 2004, respectively. He continued at UC Irvine as an assistant researcher until he was appointed an assistant professor at UT Austin in 2008.

Ten external letters were submitted as part of the promotion dossier, five were suggested by the candidate and five were selected by the budget council. Eight reviewers are faculty at US universities, one is a faculty member at a European university, and one is a senior technical staff member in industry. One reviewer is a member of NAE.

Teaching

Dr. Gerstlauer has taught one undergraduate course and two graduate courses: EE 319K, *Introduction to Embedded Systems* (four times); EE 382V *Embedded System Design and Modeling* (four times); and EE 382V *System on a Chip* (three times). His average overall instructor/course ratings for these courses are 4.05/3.78, 4.20/3.55, and 4.33/3.87 respectively. Dr. Gerstlauer's ratings compare favorably with the weighted average/median instructor ratings for assistant professors in the Department of Electrical and Computer Engineering over the last five years (4.06/4.08 for undergraduate courses) and (4.22/4.36 for graduate courses).

In collaboration with Professors Yerraballi and Valvano, Dr. Gerstlauer is developing a massively open online course (MOOC) based on EE 319K. This course will be delivered through the edX consortium during the 2014 spring semester and will include a physical hardware laboratory component. This is believed to be the first time that a MOOC will include a laboratory component using physical hardware, as opposed to simulations of hardware.

Research

Dr. Gerstlauer's research is in the area of system-level design of embedded computer systems, with a focus on design automation methodologies, technologies and tools. His primary focus has been on tools for modeling systems-on-a-chip that are embedded in a variety of products, from consumer electronics to civilian spacecraft and military systems. Dr. Gerstlauer's methods and tools provide assistance for teams of designers in making key decisions and automating the design of the entire computing system based on the design decisions.

At UT, Dr. Gerstlauer has published nine archival journal papers (eight in print and one accepted), 32 peer-reviewed conference papers (these conferences have acceptance rates in the range of 17 to 34%). His career totals are 12 archival journal papers, 54 peer-reviewed conference papers, and three co-authored books.

Dr. Gerstlauer's extramural research funding in rank includes nine grants and four gifts, totaling nearly \$2.2 million (his share is \$1.4 million). The research grants have been funded by federal agencies (National Science Foundation, DARPA, and Army Research Office) and industrial groups (Semiconductor Research Corporation, Samsung). He is the principal investigator on ten of these research grants/gifts.



The letters from external reviewers are consistently strong. Dr. Gerstlauer's specific contributions to the field and the impact of his work are well documented.

Dr. Arvind (Massachusetts Institute of Technology, NAE) writes, "There is a good balance between *tools* versus *design* papers. For me Andreas[] work would lack credibility without the design papers. The topics covered by these papers are of central concern in ESL [embedded computer systems]. I also found the architecture modeling paper and the OS paper together offering some creative insights in a difficult modeling question."

Dr. Nikil Dutt (University of California, Irvine) writes, "After joining UT Austin, Dr. Gerstlauer has continued to build on this momentum by creating abstractions for RTOS modeling for heterogeneous multi-core platforms, hardware-dependent software design methodologies, and transaction-level modeling for efficient exploration of communication architectures. His recent work on speeding up system-level simulation and embedded software modeling already show early signs of impact both in the research arena, as well as for industrial practitioners."

Dr. Milos Ercegovac (University of California, Los Angeles) writes, "These works are typical of his research: there is a clear, original idea, a good technical depth, and strong experimental results. Prof. Gerstlauer and his collaborators made notable contributions in identifying key principles of electronic system design, covering both hardware and software aspects."

Dr. Peter Hofstee (IBM Austin Research Laboratory) writes, "... what most impresses me about Dr. Gerstlauer's work, is on the one hand a rigorous drive for the abstraction and elegance one expects of academic research with lasting value, and at the same time a high degree of completeness and realism that allows his research to be readily applicable. It is unusual to see this span of interest and capability within a single researcher."

Dr. Martin Wong (University of Illinois at Urbana-Champaign) writes, "... Andreas has established a diverse and high-quality research program that is certainly on par with if not better than any of his peers'." "... Andreas is highly visible, well known and respected in the broader automation community."

#### Advising and Student Mentoring

At UT Austin, Dr. Gerstlauer has graduated [REDACTED] co-supervised PhD students, [REDACTED] MS thesis students [REDACTED] and five MS report students. He is currently supervising or co-supervising seven PhD students and [REDACTED] MS students. He has also served as the faculty advisor to several upper-division undergraduate students in Computer Engineering and Embedded Systems tracks.

#### University Service

Dr. Gerstlauer has served on several committees within the Department of Electrical and Computer Engineering. He has been actively engaged with the undergraduate curricula and with graduate student recruiting and admissions. He also served on the faculty search committee one year.

#### Professional Service

Dr. Gerstlauer is an associate editor for *Transactions on Embedded Computing Systems* within the Association for Computing Machinery (ACM) and he serves on the editorial board for *Design Automation for Embedded Systems* (SpringerLink). He has also served on the technical program committee for several technical conferences.

Other Evidence of Merit or Recognition

In 2013, Dr. Gerstlauer's work



Overall Assessment

Dr. Gerstlauer has developed a strong research program with a high level of publication productivity; he has secured a sustainable level of research funding from federal and corporate sources; and the quality and impact of his research are highly regarded by the external reviewers. His teaching contributions at the undergraduate and graduate level are strong.

Accordingly, I recommend promotion of Andreas Gerstlauer to associate professor with tenure.



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Sharon L. Wood, Interim Dean  
2 November 2013



## APPENDIX 4: HEIDARI PROMOTION

THE UNIVERSITY OF TEXAS AT AUSTIN

### RECOMMENDATION FOR CHANGE IN ACADEMIC RANK/STATUS

Name: Heidari, Zoya EID: zh732 Present Rank: Assistant Professor

Years of Academic Service (*Include AY 2017-18 in each count*):

At UT Austin since: 9/1/2015 (month/day/year) Total Years at UT Austin: 3

In Present Rank since: 9/1/2015 (month/day/year) Total Years in Present Rank: 3

*Tenure-track only:*

Number of Years in Probationary Status: 3

Additional information: Accelerated

Primary Department: Petroleum and Geosystems Engineering

College/School: Engineering, Cockrell School of

Joint Department: N/A

College/School: N/A

Other Department(s): N/A

#### Recommendation actions<sup>1</sup>:

By Budget Council/Executive Committee: Promote

Vote<sup>2</sup> for promotion 9; Against 0; Abstain 1; Absent 0; Ineligible to vote 1

By Department Chair: Promote

By College/School Advisory Committee: Promote

Vote<sup>2</sup> for promotion 7; Against 0; Abstain 0; Absent 0; Ineligible to vote 0

By Dean: Promote

Administrative Action: Promote to Associate Professor

Date Action Effective: September 1, 2018

(To be submitted to the Board of Regents as part of the annual budget.)

By: Mauri M. Iri Date: February 15, 2018

For the President

<sup>1</sup>See "Chart of Recommended Actions" for eligible recommended actions applicable to specific conditions and administrative levels.

<sup>2</sup>Record all votes for and against promotion, abstentions by eligible voting members, and the number of absent eligible voting members. The number of committee members ineligible to vote should also be recorded. Enter zero where it would otherwise be blank.



### **Dean's Assessment**

#### **Zoya Heidari**

Hildebrand Department of Petroleum and Geosystems Engineering  
Cockrell School of Engineering

Dr. Zoya Heidari received her BSc in mechanical engineering and MSc in biomechanical engineering from Sharif University of Technology (Iran) in 2005 and 2007, respectively. She received her PhD in petroleum and geosystems engineering from the University of Texas at Austin in 2011<sup>1</sup>. She joined the faculty in the Harold Vance Department of Petroleum Engineering at Texas A&M University as an assistant professor in September 2011, and moved to the Hildebrand Department of Petroleum and Geosystems Engineering (PGE) at the University of Texas at Austin in September 2015.

If promoted to associate professor in September 2018, Dr. Heidari will have accumulated three years of probationary service at UT and a total of seven years in rank as an assistant professor. While this case is considered to be accelerated when considering only Dr. Heidari's time at UT, her total time in rank exceeds our normal timeline.

Dr. Heidari's research is focused on the in-situ formation evaluation and petrophysical assessment of permeable rocks with a goal of quantifying the fluid storage and transport properties. Dr. Heidari has also developed several new methods and algorithms for the quantification of effective physical properties of rocks and she has advanced new procedures for the enhanced in-situ assessment of rock properties using a variety of fluid/solid contrast agents, including nanoparticles. Within the Hildebrand Department of Petroleum and Geosystems Engineering, her work contributes to three of the twelve primary research areas: formation evaluation; unconventional resources; and petrophysics and pore-scale processes.

Eight external letters were submitted as part of the promotion dossier, with three letter writers recommended by Dr. Heidari and five selected by the budget council. Seven letter writers are faculty at US institutions: Colorado School of Mines, Houston<sup>2</sup>, Oklahoma, Penn State<sup>3</sup>, Stanford, and Texas A&M<sup>4</sup>. One letter writer is a faculty member at Imperial College London. Two of the letter writers are members of the National Academy of Engineering (NAE).

Letters were solicited from three additional external reviewers. Two declined due to personal commitments and/or lack of familiarity with Dr. Heidari's area of research. One potential reviewer did not respond to the request.

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<sup>1</sup> [REDACTED]

<sup>2</sup> Christine Ehlig-Economides served as Dr. Heidari's faculty mentor at Texas A&M for three years before she joined the University of Houston in 2014. However, there is no record of any formal research collaboration.

<sup>3</sup> Russell Johns served on the faculty in the Department of Petroleum and Geosystems Engineering at UT Austin from 1995 to 2010. Dr. Heidari did not take any courses from Dr. Johns, and he did not serve on her PhD committee.

<sup>4</sup> Michael King served as the chair of the search committee when Dr. Heidari was hired at Texas A&M. There is no record of any formal research collaboration.

Teaching

While in rank at UT, Dr. Heidari has taught one undergraduate course and two graduate courses:

- PGE 337, *Introduction to Geostatistics*  
Required undergraduate course  
Taught two times (average enrollment of 56 students)  
Instructor ratings: 4.0 to 4.4 | Course ratings: 3.7 to 4.0
- PGE 383, *Rock Physics*  
Graduate elective  
Taught once (7 students)  
Instructor rating: 4.9 | Course rating: 4.6
- PGE 385K, *Advanced Multi-Well Formation Evaluation*  
Graduate elective  
Taught once (15 students)  
Instructor rating: 4.4 | Course rating: 4.1

Dr. Heidari's average instructor at the undergraduate level are slightly below the median (4.3) for both the department and the Cockrell School, and her average instructor rating at the graduate level is above the median within the department (4.3) and school (4.5). Senior faculty conducted peer evaluations in Dr. Heidari's courses two times in rank. Carlos Torres-Verdin provided very specific feedback regarding areas of potential improvement in her undergraduate course. Student comments were generally positive, but several complained about using MatLab in PGE 337.

Dr. Heidari taught eight courses as a faculty member at Texas A&M. Her average instructor rating was 3.95/5.0 in the undergraduate courses and 4.43/5.0 in the graduate courses.

Research

Dr. Heidari's research focuses on petrophysics and multi-scale formation evaluation, especially for unconventional resources (carbonates and shale formations). Her key contributions involve the use of nuclear magnetic resonance (NMR) measurements for detection of production zones, developing new models for formation evaluation, and describing the rock fabric (spatial pore geometry) in reservoirs. Highlights of Dr. Heidari's research accomplishments include:

- 30 archival journal publications in rank<sup>5</sup> (34 career total). She published 23 journal papers in rank with her graduate students.
- Many of her publications are in top journals in her field including *Applied Clay Science* (IF=3.1), *AAPG<sup>6</sup> Bulletin* (2.8), *Geophysics* (2.4), *SPE<sup>7</sup> Journal* (2.2), and *Mathematical Geosciences* (2.0). She has also published extensively in journals that are more narrowly focused on her specific research interests: *Journal of Petroleum Science and Engineering* (1.9), *SPE Reservoir Evaluation & Engineering* (1.7), *SPE Production & Operations* (0.8), *Petrophysics* (0.8), and *Interpretation – A Journal of Subsurface Characterization* (0.7).
- An h-index of 11 (Google Scholar) with 372 citations.

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<sup>5</sup> 17 at UT (four are in press) and 13 at Texas A&M

<sup>6</sup> American Association of Petroleum Geologists

<sup>7</sup> Society of Petroleum Engineering

While at Texas A&M, Dr. Heidari established an impressive record of research funding from industry and foundations:

- She established a joint industry research program (JIP) with six members, which provided \$900,000 (all her share)
- She received \$100,000 from the American Chemical Society Petroleum Research Fund through the Doctoral New Investigator grant program.
- She received \$40,000 from the Society of Petroleum Engineers through a Research Fellowship Award for new faculty.
- She and several colleagues worked directly with industrial sponsors to secure \$930,000 (\$525,000 her share).
- She secured two research projects from JIP directed by senior faculty at Texas A&M (\$300,000 her share).
- She was a co-PI on a grant with colleagues at Texas A&M Qatar from the Qatar National Research Foundation for \$900,000 (\$110,000 her share).
- She was a co-PI on a multi-university team that secured \$3.9 million from the Skoltech Center for Research (Russia) (\$540,000 her share).
- She received four grants through the Crisman Institute<sup>8</sup> at Texas A&M, for a total of \$770,000 (\$700,000 her share).

Her share of research funding at Texas A&M exceeded \$3.4 million, which is a remarkable amount. However, the level of peer-review for these grants is not clear. Since joining UT, Dr. Heidari has received one external research grant from the Texas Oil and Gas Institute of the University of Texas System, and she established an industrial affiliate research program (IAP) with one member<sup>9</sup>. She is the sole PI on these grants/projects. Her total funding at UT Austin is \$200,000 (all her share).

The global decrease in oil prices has reduced Dr. Heidari's ability to secure research funding from industry at UT, but she had several additional contracts pending at the time that her promotion dossier was submitted.

All the external reviewers discussed the quality and impact of Dr. Heidari's work and recommended promotion. Martin Blunt<sup>10</sup> (Imperial College London) offered a recommendation, "My only advice would be for her to consider aiming to publish some work in higher-profile or more general journals with a broader readership: at present most papers are published in somewhat specialist petroleum publications."

#### Advising and Student Mentoring

At Texas A&M, Dr. Heidari graduated five PhD (one co-supervised) and eight MS students (three co-supervised). Dr. Heidari is currently advising five PhD and [REDACTED] MS students [REDACTED] at UT and she continues to co-supervise a PhD student at Texas A&M. She also mentored one postdoctoral fellow at UT.

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<sup>8</sup> Funding is provided through an endowment and annual support from member companies.

<sup>9</sup> She is currently negotiating with three additional industry members. Each member company will provide \$50,000 annually to the IAP.

<sup>10</sup> Department of Earth Science and Engineering

#### University Service

Dr. Heidari's university service has been focused at the department level at UT, where she has served on a faculty recruiting committee and the graduate admissions committee. She is also a member of the Women in Engineering Program advisory committee for the Cockrell School.

#### Professional Service

Dr. Heidari is a member of several professional organizations. She currently serves as an associate editor for *SPE Production & Operations* and *Mathematical Geosciences* (Springer). She was recently elected to a two-year term as vice president of education for the Society of Petrophysicists and Well-Log Analysts.

#### Other Evidence of Merit or Recognition

Dr. Heidari's accomplishments have been recognized by the Society of Petroleum Engineers:

- She received a Research Fellowship Award in 2012 (six awarded). The award provides seed funding to new faculty members and recognizes their creative research ideas.
- She received an Innovative Teaching Award in 2015 (five awarded).
- She received the Cedric K. Ferguson Medal in 2017 for the best paper published in an SPE journal by an SPE member who is younger than 36.

#### Overall Assessment

In summary, Dr. Heidari is a dedicated teacher and an outstanding researcher. She established an extremely well-funded research program at Texas A&M from a variety of industry sources, and is working diligently to reestablish her research program at UT. External referees enthusiastically support her promotion. Her record of student advising and mentoring is strong. She is quite active in the professional community and she has received several competitive awards from the Society of Petroleum Engineers.

To date, Dr. Heidari has not received any federal research funding, but this is not a requirement for promotion. Many of the faculty in the Hildebrand Department of Petroleum and Geosystems Engineering receive the majority of their research funding from industry.

One may ask why Dr. Heidari is being considered for promotion at this time, when she has not yet reestablished her research program at UT. A commitment was made when she was recruited from Texas A&M that her promotion case would be considered in a timely manner. The department budget council and I do not believe that the global downturn in oil and gas prices should be the deciding factor in the duration of her probationary period at UT. As such, I believe that Dr. Heidari's performance meets or exceeds expectations for early promotion to associate professor with tenure in all categories, and I support this case without reservation.



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Sharon L. Wood, Dean  
20 November 2017

## APPENDIX 5: SANGHAVI PROMOTION

THE UNIVERSITY OF TEXAS AT AUSTIN

Date: 9/4/13

### RECOMMENDATION FOR CHANGE IN ACADEMIC RANK/STATUS

Name: Sujay Sanghavi

Present Rank: Assistant Professor

Years of Academic Service (*Include AY 2013-14 in each count*):

At UT Austin since: 9/1/09 In present rank: 5; In Probationary Status (TT **only**): 5  
(m/d/y) (# of years) (# of years)

Department: Electrical and Computer Engineering

Other: \_\_\_\_\_

College/School: Cockrell School of Engineering

#### Recommended action<sup>1</sup>:

By Budget Council/Executive Committee: Promote to Associate Professor

Vote<sup>2</sup> for promotion 25; Against 1; Abstain 0; Absent 9

By Department Chair: Promote to Associate Professor

By SBS Executive Committee: \_\_\_\_\_

Vote<sup>2</sup> for promotion \_\_\_\_\_; Against \_\_\_\_\_; Abstain \_\_\_\_\_; Absent \_\_\_\_\_

By Director: \_\_\_\_\_

By College/School Advisory Committee: Promote

Vote<sup>2</sup> for promotion 7; Against 0; Abstain 0; Absent 0

By Dean: Promote

Administrative Action: Promote to Associate Professor

Date Action Effective: September 1, 2014

(To be submitted to the Board of Regents as part of the annual budget.)

By:  For the President

Date: 12/16/2013

<sup>1</sup>See "Chart of Recommended Actions" for eligible recommended actions applicable to specific conditions and administrative levels.

<sup>2</sup>All votes are to be recorded as For, Against, or Abstain. (Note: unexplained abstentions will be interpreted as weak negative votes by the President's Committee.) Also record number of absent eligible voting members.



**Dean's Assessment**  
**Sujay Sanghavi**  
 Department of Electrical and Computer Engineering

Sujay Sanghavi received his Bachelor of Technology in Electrical Engineering from the Indian Institute of Technology-Bombay (2000). He subsequently received an MS in Electrical and Computer Engineering (2002), an MS in Mathematics (2005), and a PhD in Electrical and Computer Engineering (2006) from the University of Illinois at Urbana-Champaign. He continued his research as a postdoctoral scholar at the Massachusetts Institute of Technology for two years. Prior to being hired as an assistant professor in the Department of Electrical and Computer Engineering at UT Austin, he was an assistant professor at Purdue University for one year. If successfully promoted to associate professor, Dr. Sanghavi will have served in rank as an assistant professor for six years, with five years at UT.

Ten external letters were submitted as part of the promotion dossier, five were suggested by the candidate and five were selected by the budget council. All reviewers are faculty at peer institutions in the US. Two reviewers are members of NAE.

Teaching

Dr. Sanghavi has taught one undergraduate course and four graduate courses: EE 351K, *Probability, Statistics, and Random Processes* (three times); EE 381J *Probability and Stochastic Processes I* (two times); EE 381V *Sparsity, Structure, and Algorithms* (two times); and a two-class sequence with Dr. Constantine Caramanis, EE 381V *Large-Scale Optimization* (one time) and EE 381V *Large-Scale Learning* (one time). His weighted average instructor/course ratings for these courses are 3.8/3.1, 4.0/3.7, 4.2/4.2, 3.7/3.7, and 3.8/3.7 respectively. Dr. Sanghavi's ratings are below the weighted average/median instructor ratings for assistant professors in the Department of Electrical and Computer Engineering over the last five years (4.06/4.08 for undergraduate courses) and (4.22/4.36 for graduate courses).

In the past six years, seven tenured and tenure-track faculty members have taught 31 sections of EE 351K. The instructor ratings in EE 351K varied between 2.5 and 4.6, with an average of 3.79. Dr. Sanghavi's ratings in EE 351K are consistent with the departmental norms in this class. The budget council in Electrical and Computer Engineering concluded that Dr. Sanghavi is an innovative teacher, but recognized the need for improvement at the graduate level.

Research

Dr. Sanghavi's research field is information science in which his focus is on developing inference from large-scale data and modeling, and control of large-scale networks. He has made significant contributions in four main areas: mathematical signal processing, high-dimensional statistics, information theory, and networking.

He has published nine journal papers and thirteen papers in highly selective journals in rank. In his career, he has 12 journal papers and 34 refereed papers in conference proceedings of varying selectivity. He has been awarded seven research grants, four of which are from the National Science Foundation, two from the Army Research Office and one from the Defense Threat Reduction Agency (DTRA). He is the PI on five of these grants. His total funding of \$3.4 million (\$2 million his share) includes an eighth award from the corporate affiliates to the Wireless Networking and Communications Group, which is a joint effort among the group.

Dr. Sanghavi has significantly broadened his research focus beyond the scope of his PhD and postdoctoral work. The quality, breadth and depth of his research are highlighted in all of the external letters.



Dr. Emmanuel Candes (Stanford University) writes, "Sanghavi's CV is impressive. His productivity is astounding. The number of collaborative projects and the amount of financial support he is receiving is staggering. Finally, his visibility, as evidenced by the number of invited talks he has given in recent years, and memberships to technical program committees of top conferences in the field cannot possibly higher for someone this young." "In summary, Sujay has made groundbreaking contributions and is regarded as a world leader in his field."

Dr. Kannan Ramchandran (University of California, Berkeley) writes, "Sujay's research not only brings deep theoretical understanding to very complicated problems in large-scale systems, but goes the extra mile in formulating practical algorithmic solutions that have guaranteed performance. This is a rare combination that makes Sujay's research stand out, as he straddles the bridge between exotic theory and practical impact in a way that few researchers have both the intellect and the guts to pull off."

Dr. John Tsitsiklis (Massachusetts Institute of Technology, NAE) emphasized the quality and breadth of Dr. Sanghavi's research: "He obtains strong and insightful results, and also sets a new direction in the network inference field. This is one of the best works on inference of network phenomena that I have seen." "...Sujay's contributions [sic] also extend to the subject of networking. ... This work is distinguished by its novel algorithm structure and its insightful mathematical analysis." "His work on link scheduling in wireless networks using local information is also distinguished by its novelty and clever analysis, and has been widely cited."

Dr. P.R. Kumar (Texas A&M University, NAE) writes, "Sujay is a wonderfully deep and broad ranging researcher. He is very creative, and has made a number of excellent contributions." "Every time I hear Sujay speak, I am absolutely fascinated by the novelty, clarity and beauty of the results that he is able to constantly come up with, and each time in a completely different area!"

Dr. Alfred Hero (University of Michigan) writes, "Sujay Sanghavi has distinguished himself as one of the most versatile rising stars in the field."

#### Advising and Student Mentoring

While in rank, Dr. Sanghavi has [REDACTED] He has also mentored a senior design team of five students.

#### University Service

Dr. Sanghavi has served on several committees within the Department of Electrical and Computer Engineering. He has been actively engaged with graduate student recruiting and admissions and he has been the faculty organizer for the weekly seminar series within the Wireless Networking and Communications Group, which hosts approximately 20 invited speakers each year.

#### Professional Service

Dr. Sanghavi has served on the technical program committees for numerous technical conferences and workshops, including the 2014 top conference in the field of networks.

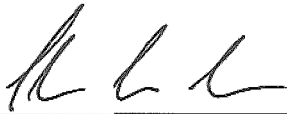
#### Other Evidence of Merit or Recognition

Dr. Sanghavi received a CAREER Award from the National Science Foundation (2010) and a Young Investigator Award from the Defense Threat Reduction Agency (DTRA).

Overall Assessment

Dr. Sanghavi is recognized as one of the young stars in the field of networks and he has developed a strong research program. His performance as a teacher has been adequate, and he has demonstrated a solid commitment to service both within the University and to the profession.

Accordingly, I recommend promotion of Sujay Sanghavi to associate professor with tenure.

A handwritten signature in black ink, appearing to read 'S. L. Wood', is positioned above a horizontal line.

Sharon L. Wood, Interim Dean  
2 November 2013

**APPENDIX 5a: TIWARI PROMOTION**

THE UNIVERSITY OF TEXAS AT AUSTIN

**RECOMMENDATION FOR CHANGE IN ACADEMIC RANK/STATUS**Name: Tiwari, Mohit EID: mt28295 Present Rank: Assistant ProfessorYears of Academic Service (*Include AY 2018-19 in each count*):At UT Austin since: 9/1/2013 (month/day/year) Total Years at UT Austin: 6In Present Rank since: 9/1/2013 (month/day/year) Total Years in Present Rank: 6*Tenure-track only:*Number of Years in Probationary Status: 6Additional information: N/APrimary Department: Electrical and Computer EngineeringCollege/School: Engineering, Cockrell School ofJoint Department: N/ACollege/School: N/AOther Department(s): N/ARecommendation actions<sup>1</sup>:By Budget Council/Executive Committee: PromoteVote<sup>2</sup> for promotion 32; Against 0; Abstain 3; Absent 0; Ineligible to vote 2By Department Chair: PromoteBy College/School Advisory Committee: PromoteVote<sup>2</sup> for promotion 7; Against 0; Abstain 0; Absent 0; Ineligible to vote 0By Dean: Promote

Administrative Action: \_\_\_\_\_

Date Action Effective: September 1, 2019

(To be submitted to the Board of Regents as part of the annual budget.)

By: \_\_\_\_\_ Date: \_\_\_\_\_

For the President

<sup>1</sup>See "Chart of Recommended Actions" for eligible recommended actions applicable to specific conditions and administrative levels.<sup>2</sup>Record all votes for and against promotion, abstentions by eligible voting members, and the number of absent eligible voting members. The number of committee members ineligible to vote should also be recorded. Enter zero where it would otherwise be blank.



The University of Texas at Austin  
Cockrell School of Engineering

### **Dean's Assessment**

**Mohit Tiwari**

Department of Electrical and Computer Engineering  
Cockrell School of Engineering

Dr. Mohit Tiwari received his BTech in computer science and engineering in 2005 from the Indian Institute of Technology, Guwahati, and his MS and PhD in computer science from the University of California, Santa Barbara in 2010 and 2011, respectively. He was a post-doc at the University of California, Berkeley for two years before joining the Department of Electrical and Computer Engineering (ECE) as an assistant professor in September 2013. If promoted to associate professor in September 2019, he will have accumulated six years of probationary service.

Dr. Tiwari's research focuses on developing secure computer systems. The proliferation of computer systems, including social and cloud computing, has exacerbated security vulnerabilities. Traditional techniques of patching vulnerabilities as they are identified is no longer a sustainable approach to building secure computer systems that are needed for the healthcare, election, and mobile computing systems of the future. Dr. Tiwari has made important advances toward developing the hardware and software systems necessary to protect data. Important developments include architectural mechanisms that enable information-leak-free hardware enclaves, containerized data for web services, and anomaly-detection mechanisms. His work is directly related to one of the Cockrell School's four priority research areas: advancing intelligent systems and man-machine symbiosis.

Ten external letters were submitted as part of the promotion dossier, with six letter writers selected by the budget council. Nine letter writers are current or previous faculty members at peer universities in the US, and one is a principal research scientist at Visa Research.

Several connections exist between the letter writers and Dr. Tiwari, but I consider all of them to be arm's length reviewers:

- John Kubiawicz (UC Berkeley) is technically not arm's length, as he is a co-author on a 2013 conference paper. As explained in the dossier, Dr. Tiwari was a post-doc at Berkeley when the research was conducted and Dr. Kubiawicz was the co-advisor of one of the graduate students with whom Dr. Tiwari collaborated directly. However, Dr. Tiwari did not collaborate directly with Dr. Kubiawicz.
- In his letter, Onur Mutlu (ETH Zürich and Carnegie Mellon) refers to a 2016 invited paper that summarized the topics presented during a conference session that he co-authored with Dr. Tiwari. This paper was a compilation of information presented by others and represents an editorial, rather than technical, collaboration.
- David Brooks (Harvard), Scott Mahlke (Michigan), Moinuddin Qureshi (Georgia Tech), and Dr. Tiwari are associated with C-FAR (Center for Future Architectures Research) at the University of Michigan. The center engages faculty at many universities (Michigan, Columbia, Duke, Georgia Tech, Harvard, Illinois, MIT, Princeton, Stanford, UC-Berkeley, UCLA, UC-San Diego, UT, Virginia, and Washington), and it does not appear that Dr. Tiwari has collaborated directly with any of the letter writers.

Teaching

While in rank, Dr. Tiwari taught one required undergraduate course and one graduate elective. He also organized a Freshman Research Initiative stream through the College of Natural Sciences, and served as a mentor. The CIS data from the FRI courses will not be addressed, because Dr. Tiwari was not directly responsible for teaching the courses.

Dr. Tiwari's instructor ratings have oscillated between 3.5 and 4.6 in the undergraduate course. In his teaching statement, Dr. Tiwari addressed the challenges he has faced in teaching the embedded systems course and the changes that he has made to improve the student satisfaction. He solicits feedback from the students throughout the semester, and appears to be receptive to their suggestions. His most challenging semester (Spring 2017) also corresponded to the largest number of students (78) in the class. He seems to have addressed the students' primary concerns, as his average instructor rating was much higher in Spring 2018.

Dr. Tiwari's teaching at the graduate level has been consistently strong.

Research

Dr. Tiwari has established a very strong, externally funded research program at UT. Key metrics include:

- 12 peer-reviewed proceedings at highly selective conferences in rank (22 total).<sup>1</sup> He published 8 conference papers with his students/post-docs at UT.
- 2 archival journal publications in rank (6 total). He published one journal paper with his students/post-docs at UT.
- He has published papers in highly selective conferences related to computer architecture and computer security, including International Conference on Architectural Support for Programming Languages and Operating Systems (ASPLOS), ACM Conference on Computer and Communications Security (CCS), IEEE International Symposium on Hardware Oriented Security and Trust (HOST), International Symposium on High Performance Computer Architecture (HPCA), International Symposium on Computer Architecture (ISCA), International Symposium on Microarchitecture (MICRO), and USENIX Security Symposium.
- An h-index of 19 (Google Scholar) and 1,271 citations.<sup>2</sup>

While in rank, Dr. Tiwari has secured 15 research grants/gifts totaling more than \$5 million in external funding (his share is \$3.5 million) from a wide variety of sources including three federal agencies<sup>3</sup> and industry. He is the PI on 14 of the grants. Three of his current grants extend beyond the end of the 2018-19 academic year, including two from NSF and one from DARPA.

The letters from the external reviewers were positive and addressed the impact of Dr. Tiwari's work and his reputation as an emerging leader. One reviewer made comments that can be considered to be critical, but he qualified his observation and recommended promotion:

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<sup>1</sup> Refereed conference papers in highly selective conferences are the primary mechanism for disseminating research results in the fields of computer architecture and cyber security.

<sup>2</sup> Dr. Tiwari's most highly cited paper has 165 citations and is based on work completed during his graduate studies at UC-Santa Barbara. His most highly cited paper published in rank at UT has 78 citations.

<sup>3</sup> Defense Advanced Research Projects Agency (DARPA), National Science Foundation (NSF), and National Security Agency (NSA)

- John Kubiawicz (Electrical Engineering and Computer Science, UC Berkeley) expressed some concerns about Dr. Tiwari's publication record, "his last 5 years have been fairly productive ... Mohit's paper count may be a bit lower than others in a similar position, but I'd say that it is more than sufficient."

#### Advising and Student Mentoring

Dr. Tiwari graduated [REDACTED]. He co-mentored one postdoctoral fellow. He is currently advising seven PhD students [REDACTED]. He has also integrated undergraduate students into his research team with three to five students participating each year.

#### University Service

Dr. Tiwari's service to the university has primarily been related to faculty recruiting and graduate student recruiting. He has also been actively engaged in curriculum reform/development within ECE.

#### Professional Service

Dr. Tiwari is a member of several professional societies and actively serves on the program committees for top conferences in computer architecture and cybersecurity. He also serves as an associate editor for the *ACM Transactions of Code Optimization*.<sup>4</sup>

He contributes to the central Texas community by serving as a cybersecurity advisor for startups and Dell Children's Hospital.

#### Other Evidence of Merit or Recognition

Dr. Tiwari received a CAREER award from NSF in 2015 and he has received faculty research awards from Google (2014) and Qualcomm (2017). Several of his papers have been recognized with best paper awards.

#### Overall Assessment

Dr. Tiwari has established an outstanding reputation in computer architecture and cyber security. He has been extremely successful in securing external funding to sustain his research efforts. His teaching record is solid, and he is mentoring a large research group. He has provided excellent service to UT and professional communities within his field.

Overall, I believe that Dr. Tiwari's performance meets expectations in the area of teaching and exceeds expectations in the areas of research and service. Accordingly, I am pleased to provide my strong recommendation that Dr. Tiwari be promoted to associate professor with tenure.



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Sharon L. Wood, Dean  
10 November 2018

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<sup>4</sup> The editorial board for ACM TACO includes 22 associate editors from around the world.

THE UNIVERSITY OF TEXAS AT AUSTIN

# RECOMMENDATION FOR CHANGE IN ACADEMIC RANK/STATUS

Name: Yilmaz, Ali E. EID: ae92 Present Rank: Associate Professor

Years of Academic Service *(Include AY 2018-19 in each count)*:

At UT Austin since: 9/1/2006 (month/day/year) Total Years at UT Austin: 13

In Present Rank since: 9/1/2012 (month/day/year) Total Years in Present Rank: 7

Primary Department: Electrical and Computer Engineering

College/School: Engineering, Cockrell School of

Joint Department: N/A

College/School: N/A

Other Department(s): N/A

## Recommendation actions<sup>1</sup>:

By Budget Council/Executive Committee: Promote

Vote<sup>2</sup> for promotion 31; Against 0; Abstain 4; Absent 0; Ineligible to vote 2

By Department Chair: Promote

By College/School Advisory Committee: Promote

Vote<sup>2</sup> for promotion 7; Against 0; Abstain 0; Absent 0; Ineligible to vote 0

By Dean: Promote

Administrative Action: \_\_\_\_\_

Date Action Effective: September 1, 2019

(To be submitted to the Board of Regents as part of the annual budget.)

By: \_\_\_\_\_ Date: \_\_\_\_\_

For the President

<sup>1</sup>See "Chart of Recommended Actions" for eligible recommended actions applicable to specific conditions and administrative levels.

<sup>2</sup>Record all votes for and against promotion, abstentions by eligible voting members, and the number of absent eligible voting members. The number of committee members ineligible to vote should also be recorded. Enter zero where it would otherwise be blank.





The University of Texas at Austin

Cockrell School of Engineering

### Dean's Assessment

**Ali E. Yilmaz**

Department of Electrical and Computer Engineering  
Cockrell School of Engineering

Dr. Ali Yilmaz received his BS in electrical engineering from Bilkent University (Turkey) in 1999, and his MS and PhD in electrical engineering from the University of Illinois at Urbana-Champaign (UIUC) in 2001 and 2005, respectively. He was a post-doc and visiting assistant professor at UIUC for 18 months before joining UT Austin as an assistant professor in the Department of Electrical and Computer Engineering (ECE) in September 2006. He was promoted to associate professor in September 2012. If promoted to professor in September 2019, he will have served seven years in rank.

Dr. Yilmaz's research focuses on computational electromagnetics, with applications to a variety of disciplines, including electronic, cybersecurity, geophysical, and biomedical applications. He has developed algorithms for solving complex electromagnetic scattering problems with over a billion degrees of freedom. He is a core member of the Institute for Computational Engineering and Sciences (ICES), and his work is directly related to one of the Cockrell School's crosscutting research themes: modeling and simulation of complex systems and networks.

Nine external letters were submitted as part of the promotion dossier, with six letter writers selected by the budget council. Eight letter writers are current faculty members at peer universities in the US and one is from industry. Two reviewers are members of the National Academy of Engineering (NAE). One of the external reviewers is technically not arm's length because he co-authored a conference paper with Dr. Yilmaz in 1999 (while Dr. Yilmaz was an undergraduate student in Turkey).

#### Teaching

While in rank, Dr. Yilmaz taught one required undergraduate course, one undergraduate elective, and two graduate electives. He has demonstrated the ability to be an excellent instructor, but his CIS instructor ratings have been highly variable.<sup>1</sup> The peer evaluations of teaching were all positive, and his teaching statement indicates that he takes all student comments seriously, and modifies his courses accordingly.

#### Research

Dr. Yilmaz's publication record and external funding in rank is solid. Highlights include:

- 18 archival journal publications in rank (38 total). All papers in rank were co-authored with graduate students and/or postdocs.
- Many of his papers in rank are published in high impact journals, such as *IEEE Transactions on Geoscience and Remote Sensing* (IF=4.66), *IEEE Transactions on Antennas and Propagation* (4.13), *Scientific Reports* (4.12), *IEEE Antennas and Wireless Propagation Letters* (3.45), and *Optics Express* (3.36).
- An h-index of 17 with 1,283 citations (Google Scholar).<sup>2</sup>

<sup>1</sup> More than a third of the time his instructor ratings have been between 3.5 and 3.9.

<sup>2</sup> Dr. Yilmaz's most highly cited paper has 165 citations and is based on work completed during his graduate studies at Illinois. His most highly cited paper based on work completed in rank has 36 citations.

A review of the distribution of citations to Dr. Yilmaz's work indicates that four of his twenty most cited papers were published in rank. He is still best known for the papers that he wrote with his graduate advisor.

While in rank, Dr. Yilmaz has secured eight research grants totaling more than \$2.2 million in external funding (his share is \$1.8 million) from the National Science Foundation, the Department of Energy, and industry. Dr. Yilmaz is the PI on six of the grants and two current grants extend beyond the end of the 2018-19 academic year.

The letters from the external reviewers were positive and addressed the innovative aspects of Dr. Yilmaz's research. Many stated that he has a reputation of working on challenging problems and that he is viewed as a leader in the field.

#### Advising and Student Mentoring

Dr. Yilmaz graduated [REDACTED] PhD students and [REDACTED] MS students in rank. He also mentored one postdoctoral fellow. He is currently supervising [REDACTED] PhD students, [REDACTED] MS students, and one postdoctoral research associate.

#### University Service

Dr. Yilmaz has played an active role within ECE and ICES through graduate student advising and recruiting. He has also served on faculty recruiting committees within ECE.

#### Professional Service

Dr. Yilmaz was an associate editor for *IEEE Transactions on Antennas and Propagation*<sup>3</sup> for three years and has been active organizing international symposia and workshops.

#### Other Evidence of Merit or Recognition

Dr. Yilmaz received an Outstanding Researcher Award from the Intel Corporate Research Council in 2017 and one of his papers received an Ulrich L. Rohde Innovative Conference Paper Award on Computational Techniques in Electromagnetics in 2015. Dr. Yilmaz is a senior member of the Institute of Electrical and Electronics Engineers (IEEE).

#### Overall Assessment

Dr. Yilmaz is a leading researcher in computational electromagnetics. While in rank he has made several important technical contributions, and has secured a reasonable level of external funding. He has the potential to be an outstanding teacher, but his teaching record in rank has been erratic. He is providing appropriate levels of service to UT and his professional community. Overall, I believe that Dr. Yilmaz's performance meets expectations in all areas, and I support his promotion to professor.



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Sharon L. Wood, Dean  
11 November 2018

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<sup>3</sup> The current editorial board includes 53 associate editors.



## APPENDIX 7: NIKOLOVA P&T DECISION NOTIFICATION

15 February 2019

Dr. Evdokia Nikolova  
Department of Electrical and Computer Engineering  
The Cockrell School of Engineering  
The University of Texas at Austin  
2501 Speedway, C0803  
Austin, TX 78712

Dear Evdokia:

I have been informed by President Fennes that the University has made the decision not to approve your promotion to associate professor at this time.

The issues arose related to the sustainability of your research funding and your commitment to the teaching mission of the Cockrell School. Additional procedural information will be provided directly to you from the Provost's Office.

Although promotion was not approved at this time, your case may be considered again in your up-or-out year. I am confident that you will address these issues and look forward to reviewing your case again.

Sincerely,

A handwritten signature in black ink, appearing to read "SLW".

Sharon L. Wood  
Dean  
Cockrell Family Chair in Engineering #14

SLW:sds

cc: Maurie McInnis, Executive Vice President and Provost  
Gerald E. Speitel Jr., Associate Dean for Academic Affairs  
Ahmed H. Tewfik, Chair, Department of Electrical and Computer Engineering

## APPENDIX 8: DEAN COMMENTS AFTER P&amp;T DECISION



Evdokia Nikolova &lt;nikolova2009@gmail.com&gt;

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**P&T Decision**

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**Tewfik, Ahmed H** <tewfik@austin.utexas.edu>  
To: Evdokia Nikolova <nikolova2009@gmail.com>

Tue, Feb 19, 2019 at 10:20 AM

The Dean didn't elaborate on what's in the letter and said that what's in the letter is very clear. The new information is:

- The Dean advises against trying again next year and waiting for at least one more year to take care of the research sustainability issue and improve teaching scores
- the Dean also suggested that you establish collaborations with researchers here at UT, e.g., with the transportation center on issues related to tolls and traffic.

Regards

Ahmed

[Quoted text hidden]

## APPENDIX 9: REBUTTAL

### Rebuttal to Dean Wood's Assessment

Evdokia Nikolova

Assistant Professor, ECE Dept., UT Austin

In her statement on my promotion case, Dean Wood has recommended “*do not promote*”. The recommendation comes as a surprise to me and my department following a strong departmental vote to promote me (32 Yes, 1 No, 2 Abstain at the full professor / Budget Council level and 10 Yes, 0 No, 0 Abstain at the associate professor level); a strong recommendation to promote me by my Department Chair Dr. Ahmed Tewfik and a unanimous vote (7 Yes, 0 No, 0 Abstain) and recommendation to promote me by the College of Engineering Tenure and Promotion Committee. Additionally, my external letters of recommendation are uniformly positive in supporting me for tenure. Several letters are glowing letters, including one stating that I am in the top percentages of successful tenure cases that the MIT professor had ever seen.

Dean Wood bases her negative recommendation on concerns with teaching, funding and early promotion. Below, I provide additional and supporting information that counters each of these concerns.

#### Teaching

The concerns that Dean Wood raises with my teaching are:

- 1) A mention in my teaching statement that the TAs were responsible for creating homework and programming assignments.
- 2) A perceived downward trend in my teaching evaluation scores.
- 3) A statement that I have not addressed student concerns including one suggesting revision of the syllabus.
- 4) A concluding statement “*I do not believe that she has taken responsibility for improving her teaching.*”

While at UT, I have taught EE 360C Algorithms (undergraduate), EE 381V Game Theory (graduate) and EE 381V Advanced Algorithms (graduate).

1) Related to teaching EE 360C, my teaching statement states: “*Most handwritten comments on the student evaluations are very positive on my quality of teaching and care for the students<sup>1</sup>; the negative comments are directed mainly toward the TAs and their responsibilities (creating and grading homework and programming assignments).*”<sup>2</sup>”

Dean Wood states “*Dr. Nikolova’s statement contradicts the philosophy within the Cockrell School that the faculty member is responsible for all aspects of the course, and critical aspects, such as developing assignments, should not be delegated to teaching assistants.*”

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<sup>1</sup> Example of positive student comment: “*Dr Nikolova you were Awesome! You presented material and walked through problems in a patient way that made concepts easy-to-understand. Overall, extremely glad I had you for this course! Also, loved how excited about the material you were!*”

<sup>2</sup> Example of negative student comment: “*The programming assignments were disorganized and graded too hastily by TAs.*”

In reference to Dean Wood's comment, I confirm that I, as the faculty member, am responsible for all aspects of the course. The wording in my teaching statement was inaccurate and I am hereby revising and offering more detail and clarification on how I have run the course. I taught my section of EE 360C in coordination with another EE 360C section taught by Dr. Pedro Santacruz in Fall 2014 and by Dr. David Soloveichik in Fall 2016 and Fall 2017. I and my fellow instructor co-developed course content and co-supervised the TAs for both sections. Under our instructions and guidance, the teaching assistants draft the programming and homework assignments. On the programming assignment, we provide the goals for the assignment, the topic and the high-level structure of the assignment. From there, in multiple iterations between instructors and TAs the assignment is refined down to an explicit set of tasks. My fellow instructor and I are responsible for the final assignment. On the homework assignments, we provide the goals for the assignment, invite suggestions on sample homework problems from the TAs, and finalize the selection and problem details on each assignment.

In my teaching, I care deeply about the student experience and learning. My personal teaching philosophy is to inspire students and to spark a passion and appreciation for the material I teach. I believe I have been successful as witnessed by the majority positive and several raving student comments about my teaching as well as my excellent peer teaching evaluations, both addressed in 3) below, neither of which are currently included in Dean Wood's Assessment.

2) On teaching evaluations. I paste my teaching evaluations for the three courses (Algorithms, Advanced Algorithms and Game Theory) I have taught at UT below, with comments pertaining to each course after the corresponding table.

**EE 360C Algorithms. (undergraduate)**

Semester	Enrollment	Course-Instructor Survey responses	Instructor	Course
Fall 2017	69	46	3.9 (3.93)	3.7
Fall 2017	65	46	3.7 (3.72)	3.3
Fall 2016	82	38	3.9 (3.92)	3.4
Fall 2014	61	41	4.0 (3.95)	3.7

The ECE faculty recognizes that EE 360C is **one of the most important courses in the undergraduate ECE curriculum**. A student from one of my Fall 2017 sections (the section Dean Wood bases her "*reduced scores*" comments on) wrote me in an email: "*Your class was one of my favorite classes I've taken at UT as it helped guide me to pursue a career in software engineering. I did extremely well in your class, finishing with an A, and because of your class, I was able to land internships with Amazon and Facebook. I enjoyed the class so much, that I am going to TA Algorithms next semester with Professor Julien.*"

Context of all EE 360C Instructor Ratings

In Appendix A of this rebuttal, I include the EE 360C course instructor survey (“CIS”) results for all instructors who have taught the course since 2005 (the ones available on the CIS Results data), to show that EE 360C is a difficult class to teach, and one of the **hardest classes to get high teaching evaluations for**, due to a combination of difficult mathematically rigorous (proof-based) material and it being a **required course** for many ECE students.

In terms of teaching evaluation scores, **I have the 3<sup>rd</sup> highest scores out of 13** instructors who have taught EE 360C<sup>3</sup>, the first two being tenured professors who also happen to be US-born native English speakers. Of the four instructors of EE 360C that have taught the course more than three times, my scores have the smallest variability range of 0.3 compared to ranges 0.6, 0.7 and 1.1 for Dr. Julien, Dr. Toubia and Dr. Ghosh respectively. Additionally, my score trend is the second best of these four. (See Appendix A)

My Instructor Rating Trend and Enrollment Effects

My teaching evaluations are essentially a stable trend at a 3.9 average so far (not that I do not want and have not tried to improve that; I sincerely believe that these scores are not reflective of the quality of my instruction and the effort I put into teaching). Note that the class enrollment was the lowest at 61 students when I received 4.0 in Fall 2014 and significantly higher at 81 students when I received 3.9 in Fall 2016. In Fall 2017, I received two different scores of 3.7 and 3.9 for teaching two parallel sections in exactly the same way (and again both of these had higher enrollment than my Fall 2014 section). I note that the 2<sup>nd</sup> highest-rated instructor, Dr. Nur Toubia, has seen a significantly larger variation of scores while teaching two parallel sections in Fall 2015 (3.8 and 4.5) and his lowest 3.8 score corresponds to his greatest enrollment of 87 students.

Furthermore, when rounded to two decimal places instead of one, my instructor ratings in chronological order for Fall 14, Fall 16 and two Fall 17 are: 3.95 (rounded to 4.0), 3.92, 3.72 and 3.93. (If rounded to one digit, they would all be 4!) As one can see there is no notable change in teaching scores, even though the course sizes have increased from by around 13% from first 61 to last 69 students. 3.72 is the single outlier in Fall 17, which comes mainly from 4 negative student instructor reviews, none of which contain written comments or improvement suggestions. And 3 of these 4 students denoted that they expected a course grade below their GPA. I want to emphasize that *statistically one outlier of 3.72 does not denote a trend in performance*.

In Fall 2017, I also happened to be pregnant and suffering from daily morning sickness and fatigue (my second child Elitza was born in June 2018). Despite my personal challenges I maintained the highest level of professionalism and care, teaching an increased teaching load of two sections and introducing new initiatives in EE 360C such as “lunch with the professor” and new weekly problem-solving sections to improve the student experience.

EE 381V Advanced Algorithms


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<sup>3</sup> From the available CIS Results for EE 360C starting in 2005.



Semester	Enrollment	Survey responses	Instructor	Course
Spring 2017	26	15	3.9	3.5
Spring 2015	22	18/19	4.3	4.1

On the overall instructor rating on the course instructor surveys for my Spring 2017 Advanced Algorithms course, 5 marked Excellent, 5 Very Good, 3 Satisfactory, and 2 Unsatisfactory. A student I was co-advising was taking my class; in the middle of the semester I confronted the student for not making enough progress and stated my intention to stop being the student's advisor. Due to anonymity I cannot know if that student and a friend of the student gave me the two "unsatisfactory" scores in that class. One of the unsatisfactory surveys contained the comment that the class was boring; the other did not include any comments and was also filled out incorrectly (with checkmarks instead of solid circles). In a class of such small size a single disgruntled student can throw off the average. Without one or both of these student scores, my average would have been 4.0 or 4.2 respectively.

Additionally, the number of students increased from 22 to 26 and higher enrollment typically correlates inversely with teaching scores.

#### EE 381V Game Theory

Semester	Enrollment	Survey responses	Instructor	Course
Spring 2014	16	14	4.1	4.1

This Spring 2019 semester I will be teaching the Game Theory course for the second time at UT Austin. Compared to the Spring 2014 enrollment of 16 students, the Spring 2019 course is currently at capacity of 41 (and 16 are on the waiting list). I feel the quality of my teaching is showing through in the high demand for my elective graduate class offering.

3) Dean Wood writes "[the students] also provided extensive comments about how the classes could be improved. One undergraduate student even provided a comprehensive recommendation for revising the syllabus for EE 360C. Dr. Nikolova did not address these comments in her teaching statement."

#### **EE 360C syllabus**

I have taken to heart multiple student comments and suggestions for improving the course. The course is team-taught (something I pioneered in 2014 to make the course more consistent and uniform) across multiple sections and multiple instructors teaching the course every year and the syllabus has been fixed among the instructors for many years. Dr. Julien received a teaching award in part for teaching this course with the exact same syllabus, which closely follows a widely adopted and popular textbook, *Algorithm Design* by Kleinberg and Tardos. I adopted the same syllabus and a good portion of Dr. Julien's teaching materials and teaching practices (due to her teaching excellence) while

also marking my own stamp, as discussed in this rebuttal and in the Budget Council Assessment.

That is not to say that the syllabus and way of teaching cannot be improved. Note, that student comment came from the last time I taught the course in Fall 2017<sup>4</sup>, so I have not had a chance to implement the new comments into my course. And the comment was actually not a suggestion on comprehensively revising the syllabus but rather on reallocating the time spent on the different topics in it. Per the student comment, I continuously rethink the time and speed of covering different material. I care very deeply both about the material in this course, which is part of my core research, and about being able to teach it effectively to students of widely varying mathematical backgrounds—this being one of the biggest challenges in this course.

### **Addressing student comments about how the class can be improved**

I have received 171 course instructor evaluations for EE 360C. I include a summary of student comments in **Appendix B** and in what follows I provide highlights on what actions I have taken to address the student comments that suggest improvements.

One student in Fall 2014 wrote “*use the board more and the class will be more clear.*” I have done that and in general have taken every opportunity I can to lecture on the board. Another couple of students have complained of my small handwriting on the board.<sup>5 6</sup> Consequently, I have made a conscious effort to write bigger on the board and frequently ask students if they can see what I write.

One student from Fall 2016 writes “*The class resources (slides, textbook) are not very helpful, so knowing what to study for tests is very difficult.*” Consequently, I have been reworking the slides to be more clear and I have been posting additional lecture notes. I have also started providing students with sample practice exams to help them better prepare and know what to expect on exams.

**One of my biggest changes**, which was suggested in a student comment in Fall 2014<sup>7</sup> was to introduce TA-led problem solving sessions, which I implemented in my third and fourth iterations of teaching the class in Fall 2017 and which has subsequently been adopted by Dr. Julien (the highest rated instructor of this course) in her Spring 2018 section.

As I put my heart into teaching and care deeply about how to enable students to learn better, I am intending to start an independent “math proof club” where students voluntarily go to train in writing proofs, much like they train for a sport, to help them

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<sup>4</sup> CIS results, Fall 2017: p.5 of section 16500.

<sup>5</sup> Student comment from Fall 2017: “*Dr. Nikolova was a great professor but I wish she would write bigger on the boards.*”

<sup>6</sup> Another student comment from Fall 2017: “*The professor is great and always clear about what she teaches. The only flaw is that her handwriting is too small to see.*”

<sup>7</sup> Student comment from Fall 2014: “*This course was very difficult but I thought you were a very good professor. My only suggestion is that in the future I think everyone would really benefit from a weekly problem solving session.*”

gain the necessary skillset that they are required to have but typically do not have in EE 360C.

### **Negative vs Positive student comments**

Out of 219 student reviews in my seven courses taught, I received 65 Excellent instructor reviews versus 11 Not Satisfactory & 2 Very Unsatisfactory [with these 2 being in my first time teaching EE 360C in Fall 2014]. Of these 219 reviews, I also have had 78 students add written comments with 53 of these being Positive (of which 26 were Strongly Positive), with several raving about my excellence as the instructor. Of these 78 written comments, there were 19 Negative instructor related comments (with only 3 of these being Strongly Negative) and 29 course material, TA or instructor improvement suggestions (with about half of these coming along with Positive comments on the same survey). At the time of distributing the surveys, I specifically ask students to suggest improvements in the written comments section, which explains the higher number of such comments and shows my goal to improve the student experience.

Dean Wood's Assessment does not mention any of my positive student comments, which are a vast majority, thus I would like to take the opportunity to quote some of them here:

From Fall 2014: *"Very patient and approachable, encourages students to ask questions & grapple with the material. Very thorough in her explanations and always willing to clarify. Excellent professor!"*<sup>8</sup>

From Fall 2016: *"Dr. Nikolova has been one of the better teachers I've had in my time at UT. The open format of lecture encourages questions and is more useful than only pure lecture...."* Two other students said simply, *"Nikolova is awesome!"* and *"Great lectures!"*

From Fall 2017: *"Amazing professor! Best I've ever had in EE so far. I really liked how she held a lunch where we could get to know her. All Profs should be required to do that. Great class too."* And another *"Dr. Nikolova, you were awesome! You presented material and walked through problems in a patient way that made concepts easy-to-understand ... I loved how excited about the material you were!"* Both of these student comments are from my Fall 2017 Section with instructor score average of 3.72.

### **Peer teaching evaluations**

Dean Wood's Assessment does not mention any of my uniformly positive peer teaching evaluations. Dr. Constantine Caramanis writes: *"Evdokia has a very clear teaching style. She lectures on the board. She has a very organized and therefore effective style, particularly considering the highly technical/theoretical nature of the material."* Dr. Craig Chase writes: *"Eddie is supremely competent in her field and an excellent lecturer and teacher. If I were a student, I would certainly seek out her classes."* and additionally *"EE 381V is an excellent class, well run and well taught by an outstanding young professor."*

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<sup>8</sup> Another student comment from Fall 2014 speaks about me being effective despite that student's predisposition: *"great prof. wasn't looking forward to this class but she made it fun."*

**Keynote talk invitations**

A further testimony to my effectiveness as a lecturer is that I have had the rare honor for an assistant professor to be invited to give 3 keynote talks, in Zurich, Switzerland (2014), Athens, Greece (2017) and Montreal, Canada (2017).

**Advising and student mentoring**

Another aspect of my teaching portfolio is advising students. To supplement Dean Wood's assessment in this category, I provide additional detail that in my 5 years at UT, I have not simply graduated a PhD student, but this student was a very strong one and additionally I have two other PhD students expected to graduate in the next two years.

My first student Ger Yang graduated with a PhD in August 2018. The other four professors on his PhD thesis committee, Dr. Gustavo de Veciana, Dr. Sanjay Shakkottai, Dr. Alex Dimakis and external committee member Dr. Ngoc Tran were impressed and remarked that Ger was extremely strong and had a very solid thesis. Ger published 7 papers at UT, 5 of which were in top venues in electrical engineering, operations research and game theory. Ger could have done well in academia but he wanted to be in industry, and was thrilled to get his top choice position as a software engineer at Google in Sunnyvale, CA.

In addition to Ger, I have mentored two postdoctoral associates, Dr. Thanasis Lianas (who finished in my group in December 2017 and is currently a lecturer at the National Technical University of Athens, Greece) and Dr. Manolis Pountourakis (currently my postdoc) both of whom are pursuing academic careers and are both on the faculty job market this year.

**Conclusion on teaching**

The Budget Council Summary on my teaching states: *"Dr. Nikolova takes her teaching obligations very seriously and has strived to improve her teaching effectiveness ... In closing, Dr. Nikolova is passionate about teaching, which comes across to her students and results in a highly effective style. Her teaching record clearly exceeds the expectation for an Assistant Professor in the Department of Electrical and Computer Engineering."*

In light of all above information, I strongly feel that Dean Wood's letter has not holistically evaluated my teaching portfolio. I find an evaluation of "modest teaching record" and not having taken "responsibility for improving [my] teaching" to be unfounded, unfair and not reflective of my character, efforts and achievements in teaching, and additionally it strongly contradicts the Budget Council Assessment above.

**Funding**

Dean Wood's concern with my funding is stated as follows: *"While Dr. Nikolova's external funding has come from highly competitive sources, approximately 70% of her funding was awarded during her first three years in rank. Only one grant has been awarded in the past four academic years. This raises questions about the sustainability of her research funding."*

Regarding my funding track record, it seems I have been unfortunate to apply for and win three very competitive and prestigious NSF grants in the first three years of my faculty career: 2012 (as single PI), 2013 (as coPI on a three person team), 2014 (NSF CAREER as single PI, **granted upon my first submission**, out of three possible attempts that candidates are allowed). Following that remarkable success for a theoretical researcher I had more funding than I could spend and was happy that I could focus on accomplishing the ambitious research programs described in these grant proposals, rather than on trying to obtain additional funding that I did not need and that would have taken away from research time.

My department chair in multiple annual reviews said to me that for promotion and tenure it is not the number of grants or dollar amount that matters but to have enough funding to sustain an excellent research program, and each time told me I am doing excellent on funding. Indeed, I have been successful at that: My deliberate strategy to focus my time on conducting the research outlined in my initial funded proposals has resulted in a clear upward trend of my research track record. Research being commonly stated as the leading criterion for successful promotions in Tier 1 Research Institutions. My publications and citations are on the rise, and I have increased visibility and impact, as witnessed by my external letters.

In an annual review in 2016, Dr. Tewfik told me that it would be good to apply for additional grants (which I did not need at the time and was having difficulty spending the funding I already had), just so I can show more recent funding activity upon coming up for tenure. And so I did.

**As a PI**, I envisioned and proposed an entirely new research program on advanced algorithms for power systems, and spent two months preparing an NSF proposal to submit to the interdisciplinary "Algorithms in the Field" program in January 2017. This NSF program was established to encourage the transfer of theoretical algorithms to practical/applied domains and it was **mandatory to team up with a coPI from the corresponding application domain**. In my case, I invited Prof. Michael Caramanis (Boston University) to join as a coPI from power systems. I wrote about 90% of the proposed research text, with Dr. Caramanis writing part of one research section (p.13 of 15 pages total) and jointly writing the Broader Impacts and Prior Support from NSF sections (p.14 and 15), as well as proofreading and editing the proposal. The proposal was successful and was granted the fixed amount of \$800,000.00 given to all successful proposals in that program, my share of which was \$479,985.00 as Dr. Caramanis had indicated that he wanted a 40% share and I was supporting an additional postdoc.

I am very proud of this proposal as it charts completely new territory at the interface of theoretical computer science, algorithmic game theory and power systems. This NSF grant extends through September 30, 2021. My NSF CAREER award is estimated to expire on April 30, 2020, when including a typical one-year no-cost extension.

Regarding Dean Wood's statement that "[she has] *concerns about the sustainability of [my] research program*", I am grateful to be given the opportunity to further explain that

so far I have had **100% success rate** with the NSF proposals (and one Google faculty award) I have submitted as PI, relative to the 10-20% which is commonly cited as the fraction of funded proposals. I feel this is a very strong success rate even relative to senior researchers in my field.

My external letter writers provide additional testimony on my funding record: "**Her funding record**, building on her NSF career award, **is very strong for someone working in the more theoretical part of the field**, and indicates the practical relevance of her results and insights."

I also want to emphasize that so far, my work has been primarily theoretical, thus making NSF the best source of funding. I am currently expanding additionally into power systems applications, which have opened up new avenues and possibilities for funding sources.

Regarding sustainability of my research, as of December 2018, I have approximately 2.5 years of existing funding left to support my research group. At the time of submitting my promotion materials, I had 1 postdoc and 6 PhD students. Since then, I have

- graduated one PhD student;
- have a second jointly funded PhD student expected to graduate in Fall 2019;
- a third PhD student that is expected to graduate in August 2020 and
- my postdoc's appointment runs through August 2019.

With graduations and my new group size of 4 students and no postdoc, my expenses will be about \$250,000 per year. My current remaining funding as of December 2018 is around \$600,000. This gives me about 2.5 years left with my current funding alone. I have no reason to doubt that I will be able to obtain additional grants in that time frame to continue sustaining my group once my current grants are spent.

From the total \$1.6 million of my share of grants, I have spent about \$1 million over the past 7 years so far, averaging much less than \$200,000 per year. That is directly in alignment with where I am at currently. Further, as a theoretical researcher our groups are relatively small, with my average group size being 4 students. With this, I do not understand why Dean Wood questions the sustainability of my research program.

### **Early vs. Late promotion**

Dean Wood's statement seems contradictory in recognizing my 2.5 years as Assistant Professor at Texas A&M (attributing heavy weight on funding attained while at Texas A&M) while at the same time calling my case early, after 7 years as an Assistant Professor. To me, having been on a 7-year tenure clock so far comes as 2 years late. An implication of her Assessment that I should be put on a 9-year tenure clock, a time frame in which other faculty typically transition from Assistant all the way to Full Professors, seems deeply unequal and unfair.



In addition, it seems like a minor technicality that puts me in this position of being considered “technically early” and seemingly been held to a much higher standard. I would have started at UT Austin in Fall 2013, which would have put me exactly at the “up or out” year now. However, my offer came delayed in June 2013 and the department chair Dr. Ahmed Tewfik stated that because of this delay, I will be given a start date of January 2014 so as to be nice to Texas A&M and not take me away from there on too short of a notice. If I had been a postdoc, I trust I would have been given the standard Fall 2013 start date. My more advanced in-rank position at the time seems to have caused me to be treated as less advanced now.

The second additional year comes from having been advised to accept the default extension to my probationary period due to childbirth of my first child Julian in March 2016, even if I felt I didn’t need one -- since I could always rescind it later on and *it shouldn’t hurt me in the process* and yet it has.

I remark that I am being considered in the same year as my colleague Dr. Mohit Tiwari, who started at UT Austin in Fall 2013 following a postdoc; thus I am two years his senior in rank yet being treated as two years his junior (for a **4 year inequality to advancement**) and additionally being held to a higher standard. Dr. Tiwari sought my advice for his NSF CAREER submission, which he won one year after me; I like to think that my help contributed to his success.

As Dean Wood states, she would have been supportive if I was an “up or out” case.

Throughout my time at UT, I feel that I have faced a moving target regarding both the timing and substance of promotion requirements. I have diligently followed recommendations from all levels: from senior faculty in my department on publishing more papers, from the department chair to get additional funding and from Dean Wood on waiting to graduate a PhD student before I submit my case—a question that I asked her in one of the annual tenure and promotion meetings she holds for assistant professors in the Cockrell School.

I strongly feel that I have satisfied all requirements and met the bar for tenure. In fact, one might argue that I have gone well beyond the bar for tenure, as an external letter writer from MIT writes “*Over a fifteen-year period, I would put her in the top 20% of all those I have evaluated and subsequently received tenure.*” Another external letter states: “*She would certainly have received tenure easily at all the institutions I have been affiliated with...*” Yet another external letter writer states: “*Simply put, Dr. Nikolova is one of the world’s leading junior researchers working in the intersection of fields including operations research and theoretical computer science and ECE. ... I very strongly recommend Dr. Nikolova’s promotion to Associate Professor with tenure, and that you do your best to keep her in this competitive market.*”

I feel Dean Wood and the President’s committee should strongly consider the inequity that I am facing.



## **Conclusion**

I want to be in a growing department, college and university that has clear and transparent policies and that nourishes and promotes their junior faculty. I have incredibly strong support from my departmental colleagues, my department chair, and the college tenure and promotion committee in my tenure and promotion case. Dean Wood's letter notes my strong publication record, international recognition, prestigious research awards, highly competitive NSF grants, and uniformly positive external letters.

On the family side, my husband and I are not agreeable with me being put on a 9-year tenure clock relative to the standard 5-year clock for assistant professors, and in the event of me not being promoted (after an already prolonged 7-years time in-rank), I will be considering other options. Other junior faculty in the same situation as me with prior faculty experience will likely be affected in their future decisions, which could further weaken the Department and the Cockrell School, especially in light of the recent/upcoming departures of Dr. Andrea Alu and Dr. Zheng Wang.

In this rebuttal, I have provided extensive information and detail addressing the concerns in Dean Wood's Assessment. My hope is that the additional information and clarification that I have provided will aid in a holistic evaluation that will reach a recommendation of "promote".

**Appendix A.** CIS Results for EE 360C from  
<https://utdirect.utexas.edu/ctl/ecis/results/search.WBX>

Instructor	Instruct or eval.	Course eval.	Survey respons es/ Enrollme nt	Course	Unique Number	Semester
<a href="#">Aziz, Adnan</a>	3.4	3.6	24/35	E E360C	16100	Spring 2007
<a href="#">Aziz, Adnan</a>	4.0	3.7	27/42	E E360C	16250	Spring 2008
<a href="#">Ghosh, Joydeep</a>	2.9	3.3	28/49	E E360C	16890	Fall 2007
<a href="#">Ghosh, Joydeep</a>	3.4	3.1	19/25	E E360C	16825	Fall 2009
<a href="#">Ghosh, Joydeep</a>	4.0	3.9	19/27	E E360C	16655	Fall 2010
<a href="#">Ghosh, Joydeep</a>	3.7	3.4	29/35	E E360C	16870	Fall 2011
<a href="#">Ghosh, Joydeep</a>	3.9	3.7	43/69	E E360C	16755	Fall 2012
<a href="#">Ghosh, Joydeep</a>	3.0	3.3	67/99	E E360C	16900	Fall 2013
<a href="#">Ghosh, Joydeep</a>	3.4	3.3	52/79	E E360C	16260	Spring 2015
<a href="#">Jacome, Margarida F</a>	3.3	3.4	29/55	E E360C	16075	Fall 2005
<a href="#">Jacome, Margarida F</a>	3.5	3.4	32/60	E E360C	16575	Fall 2006
<a href="#">Julien, Christine L</a>	4.1	3.8	32/41	E E360C	16335	Spring 2009
<a href="#">Julien, Christine L</a>	4.1	3.6	54/68	E E360C	16515	Spring 2010
<a href="#">Julien, Christine L</a>	4.5	4.3	33/73	E E360C	16715	Spring 2011
<a href="#">Julien, Christine L</a>	4.5	4.2	42/78	E E360C	16590	Spring 2012
<a href="#">Julien, Christine L</a>	4.6	4.3	19/22	E E360C	77575	Summer 2012
<a href="#">Julien, Christine L</a>	4.5	4.3	70/92	E E360C	16505	Spring 2013
<a href="#">Julien, Christine L</a>	4.7	4.4	65/95	E E360C	16960	Spring 2014
<a href="#">Julien, Christine L</a>	4.5	4.3	60/99	E E360C	16480	Spring 2017
<a href="#">Julien, Christine L</a>	4.7	4.5	58/106	E E360C	15775	Spring 2018
<a href="#">Khurshid, Sarfraz</a>	3.5	3.3	34/46	E E360C	16865	Fall 2008
<a href="#">Nandakumar, Vallath</a>	3.3	3.3	59/88	E E360C	16435	Spring 2016
<a href="#">Nandakumar, Vallath</a>	2.7	3.3	58/72	E E360C	15770	Spring 2018
<a href="#">Nikolova, Evdokia</a>	4.0	3.7	42/61	E E360C	17070	Fall 2014
<a href="#">Nikolova, Evdokia</a>	3.9	3.4	38/82	E E360C	16685	Fall 2016
<a href="#">Nikolova, Evdokia</a>	3.9	3.7	46/69	E E360C	16495	Fall 2017
<a href="#">Nikolova, Evdokia</a>	3.7	3.3	46/65	E E360C	16500	Fall 2017
<a href="#">Santacruz, Pedro E</a>	3.7	3.5	36/60	E E360C	17075	Fall 2014
<a href="#">Siddiqui, Junaid Haroon</a>	3.0	2.9	21/27	E E360C	77500	Summer 2013

<a href="#">Soloveichik, David</a>	3.0	3.0	36/77	E E360C	16690	Fall 2016
<a href="#">Soloveichik, David</a>	3.9	3.7	30/39	E E360C	16505	Fall 2017
<a href="#">Thomaz, Andrea Lockerd</a>	3.4	3.6	28/82	E E360C	16485	Spring 2017
<a href="#">Touba, Nur A</a>	4.5	4.2	11/17	E E360C	77335	Summer 2014
<a href="#">Touba, Nur A</a>	4.3	4.1	20/33	E E360C	77065	Summer 2015
<a href="#">Touba, Nur A</a>	3.8	3.7	46/87	E E360C	16585	Fall 2015
<a href="#">Touba, Nur A</a>	4.5	3.8	36/68	E E360C	16580	Fall 2015
<a href="#">Touba, Nur A</a>	4.4	4.2	18/33	E E360C	76595	Summer 2016
<a href="#">Touba, Nur A</a>	4.2	3.8	15/34	E E360C	76225	Summer 2017

**Instructor status:**

Aziz, Adnan – Associate Professor  
 Ghosh, Joydeep – Professor  
 Touba, Nur – Professor  
 Jacome, Margarida – Professor  
 Julien, Christine – Professor  
 Khurshid, Sarfraz – Professor  
 Nandakumar, Vallath – Lecturer

Nikolova, Evdokia – Assistant Professor  
 Santacruz, Pedro – Lecturer  
 Siddiqui, Junaid Haroon – Lecturer  
 Soloveichik, David – Assistant Professor  
 Thomas, Andrea Lockerd – Associate Professor  
 Touba, Nur – Professor

**Appendix B: Student Comments Summary with Instructor Actions**

(From EE 360C in Fall 2014 and Fall 2016 – Last classes I taught were in Fall 2017 and I have not had comments from them implemented yet due to the next course has not happened yet, but I will continue to utilize the latest Fall 2017 student comments in my next course taught.) Suggestions for improvement are in italics/red.

Addressed Comment	Strong Pos	Pos	Instructor Suggestions	Instr Neg	Strong Neg	Student Written Comments
						<b>Fall 2014 - EE 360C</b> <i>(First undergraduate course taught at UT)</i>
positive	x					"Very patient and approachable encourages students to ask questions & grapple with the material. Very thorough in her explanations and always willing to clarify. Excellent Professor!"
positive	x					"I really enjoyed learning from the Professor. Her enthusiasm and readiness to try examples in class and field questions was awesome!"
positive	x					"Great Professor. 'I' wasn't looking forward to this class, but she made it fun."
positive	x					"Professor is very helpful"
positive		x				"Good course. I'm not doing super great grade-wise, but that's just because it's hard 'material'. Lectures are helpful and Dr. Nikolova is very helpful in office hours. TA's were helpful on programming assignments."
positive		x				"The class was well organized. Explaining problems on the board helped a lot."
positive		x				"Good!"
positive		x				"You are a good lecturer, <i>but it may be better in the future to spend less time explaining one whole problem.</i> "
yes	x					"Your dress is immaculate! Great lectures. <i>Sketched about writing your/pedros name on Julien's slides.</i> "
yes	x		x			"The class has become one of my favorite EE classes. -Her- passion for teaching makes me interested in coming to class. <i>The only suggestion I'd give is to change the programming assignments to be more relevant to the class.</i> "
yes		x		x		"The instructor was clear <i>but sometimes -she- got bogged down tediously running through long examples, which might have affected the flow or interest level of the class.</i> I think the class improved throughout the semester, and it was clear that you put in the effort and cared about the students. Excellent job, especially for the first time teaching the class."
yes		x		x		"Dr. Nikolova was <i>occasionally not well prepared for lectures as would have been ideal.</i> She always 'saved' the lectures to make sure everyone understood the concept, <i>but only after some less than clear explanation (not to say this always happened, but when it did this was the pattern).</i> To clarify it would have ben better to simply start with the example that she eventually resorted to. <i>Often the examples went long when we didn't understand at first and became tedious,</i> though overall I was happy with the course, and it is obvious that Dr. Nikolova cares about the students and knows the material. 'Smoothness' or other efficiencies in communicating material the first time is hard."
yes			x			" <i>The only issue I had was that some lectures got sidetracked by questions.</i> "
-		x		x		"Class was very well structured and helpful, <i>with the sole exception of programming assignments which were often confusing and hard to submit.</i> "
yes		x	x			"This course was very difficult but I thought -she- was a very good professor. .... <u>would benefit from weekly problem solving TA session.</u> "
yes (1)		x	x			" <i>Faster feedback on programing assignments and more of them.</i> Although it's nice we have a choice of languages, <i>it'd make submitting assignments easier if only one language was used.</i> "
yes (2)				x		" <i>Programming assignments were very inconsistent in terms of the required deliverables. This course would be better suited giving more time understanding the things we learned near the end of the semester, rather than the subjects we spent time on in the beginning of the semester.</i> "
yes				x		" <i>I think PowerPoint should be rewritten to what will be covered or better yet, not used at all. TAs seem to be too independent and should be controlled more. More exercise and emphasis should be given to examples instead of theory. Use the board more and class will be more clear</i> "
-					x	" <i>Instructor doesn't know the material well. -Wasn't- able to solve or explain problems during class.</i> "
	6	9	4	5	1	

Addressed Comment	Strong Pos	Pos	Instructor Suggestions	Instr Neg	Strong Neg	
						<b>Fall 2016 - EE 360C</b>
positive	x					"Nikolova is awesome!"
positive	x					"Great Lectures"
positive	x					"Prof Nikolova was very intelligent and nice. Explained most topics in great detail. Also best dressed ECE professor."
positive	x					"Very knowledgeable on course material & much better job at explaining compared to textbook. I really appreciated being able to participate in class and that you answered all questions."
positive	x					"Learnt a lot in the class. Programming projects were a good complement. <i>Lectures could have a bit more 'exciting.'</i> "
positive		x				"Good class, great material, <i>boring lectures.</i> "
yes	x			x		"Dr. Nikolova has been one of the better teachers I've had in my time at UT. The open format of lecture encourages questions and is more useful than only pure lecture. <i>The class resources (slides, textbook) are not very helpful, so knowing what to study for tests is very difficult.</i> "
yes		x		x		"Dr. Nikolova seems dedicated and enthusiastic about the material, <i>but often explained it poorly, went too fast, or allowed the discussion to become overly complicated from questions.</i> "
yes (3)		x	x			"Material is interesting <i>but proof-based teaching / testing may not be helpful / applicable for most engineers. Some content is hard to understand and exams are stressful.</i> I hope you curve the grades enough to reflect everyone's efforts in the course. Thanks."
-		x	x			"The format and structure of the course was good, <i>but I would prefer more topics were explored.</i> While proving algorithms is important, <i>this shouldn't take the entire lecture. I'd rather more topics were explored instead.</i> "
-		x		x		"Dr Nikolova is very bright, <i>but was not always able to effectively communicate info to the class.</i> "
yes			x			" <i>I just think it would have helped if the homeworks had some sort of feedback.</i> "
yes (4)		x	x			"Good Teacher, <i>just wish she had more office hours.</i> "
yes (4)			x			" <i>I wish her office hours were later and she had more of them.</i> "
yes (5)		x		x		"Nikolova was a good teacher who was easily reachable for help. <i>I felt like she went a bit quickly in class and so it was hard to follow at times. I disliked how the quiz grades were weighted to be so much, ....I did think the information was interesting. Suggestions: - Post all the lecture slides before class; - don't work off the PowerPoint, instead <u>doing work on the board</u> is exponentially more helpful; - <u>have office hours at a location much closer to campus</u>; - more extra credit opportunities please"</i>
yes (6)		x		x		" <i>- Lecture slides info could use less notation and be more clear; - I like that we went over the possible implementations of algorithms, but I felt we rushed thru the actual, correct algorithm implementation; - Quizzes might be more beneficial if all came from hw questions.</i> "
yes						" <i>Get a new display port to VGA adapter</i> "
	6	8	5	5	-	

(1) "yes" on faster feedback.

(2) "yes" on organizing programming assignments better.

(3) "yes" on providing more help preparing for exams via practice exams.

(4) The comments on office hours were given while my office and office hours were in the UTA building, 20 minutes walk from the class location. I have not had any issues with office hours since the ECE department moved back on campus into the EER building.

(5) "yes" on use of the board and on office hours.

(6) "yes" half of the quiz questions come from the homework.

**APPENDIX 10: NIKOLOVA TEACHING AWARD NOMINATION**

Evdokia Nikolova &lt;nikolova2009@gmail.com&gt;

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**Dean's Award for Outstanding Engineering Teaching by Assistant Professor**

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Vega, Diana M &lt;diana.vega@mail.utexas.edu&gt;

Wed, Oct 18, 2017 at 5:57 PM

To: "Evdokia Nikolova (nikolova2009@gmail.com)" &lt;nikolova2009@gmail.com&gt;

Evdokia,

Congratulations on being nominated for the Dean's Award for Outstanding Engineering Teaching by Assistant Professor.

I have not received the memo from the Dean's Office in reference to the criteria and requirements of the award.

What I would like for us to do is get started by using the memo that was sent to the department last year (which is attached?)

Once I receive the memo from the Dean for 2017-2018 Cockrell School of Engineering Faculty Awards I will forward it to you

and also let you if there has been any changes or additions to the packet.

and due around March.

Below is information on the Dean's award along with the Criteria and requirements for the Award:

**Dean's Award for Outstanding Engineering Teaching by an Assistant Professor****Objective of Award:**

The Cockrell School annually awards the Dean's Award for Outstanding Engineering Teaching by an Assistant Professor to recognize teaching excellence. This award recognizes outstanding classroom teaching by an assistant professor to promote and encourage exceptional teaching in a faculty member's early career.

Recipients must demonstrate effective teaching as reflected through mechanisms such as course/ instructor surveys, show a warmth of spirit and a genuine concern for students, and exhibit the ability to impart knowledge while challenging students to conduct independent inquiry.

Nominations are made by engineering students and faculty. Final selection is made by a committee composed of faculty members and the presidents of the Graduate Engineering Council and the Student Engineering Council. The associate dean for academic affairs will serve as non-voting chair of the committee.

**NOTE:** I have attached several documents that may be able to strength your nomination packet.

**Criteria for Nomination:**

Nominations are made by engineering students and faculty. Final selection is made by a committee composed of faculty members and the presidents of the Graduate Engineering Council and the Student Engineering Council. The associate dean for academic affairs will serve as non-voting chair of the committee.

**UT Austin\_00677**

### Nomination Procedure:

Nominations may be made by a Cockrell School Department Chair or his/her designee.

Each nomination must include the following:

1. A nomination letter from the Department Chair or designee succinctly describing why the nominee is most deserving of the award.
2. A current curriculum vita. The CV should include the number of graduated Ph.D. and M.S. students, as well as the number of each in progress.
3. Statement of nominee's teaching philosophy. The teaching philosophy and/or nomination letter should clearly describe teaching innovations by the nominee.
4. Supporting letters, not to exceed five (5). At least three letters must be from current and former graduate and undergraduate students. However, undergraduate letters carry more weight. Letters of support from colleagues in the nominee's department are discouraged. The letter of support are usually the hardest to receive if we can have those in hand as soon as possible that would be great.
5. CIS scores for the last 2 years (beginning in academic year 2015-2016 must be submitted using the attached CIS Course Data Sheet Template provided by the Provost's Office. Note: The Provost's Office will complete the grade data highlighted in yellow. Student comments are not to be included in the initial nominations.

Please let me know if I can be of further assistance.

Thanks.

Diana Vega

Diana Vega

Administrative Associate

The University of Texas at Austin

Electrical & Computer Engineering

2501 Speedway, C0803

EER 2.882A

Austin, TX 78712

Phone: 512-471-6908

Fax: 512-471-3652

<http://www.ece.utexas.edu/>



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**4 attachments****Copy of Course Data Sheet Template ROTA.xlsx**

14K

**Guidelines to assist you when preparing your nomination packet.docx**

32K

**2018 Table of Contents.docx**

21K

**2016-2017 Faculty Awards Memo (4).pdf**

227K

**APPENDIX 11: FUNDING COMPARATORIES IN MY FIELD****Evdokia Nikolova—Funding Comparatories:**

Funding Comparatories (these are the research peers from peer institutions from the Department Chair letter and Budget Council research statement showing that I compare equivalently or better than them in terms of research accomplishments). The below shows that I compare better than all in funding.

Name, University	Year PhD	Year tenured	Grants pre-tenure	Grants total	Notes
Evdokia Nikolova, UT Austin	2009		NSF CAREER 3 other NSF Google WNCG	\$1,809K	
Shaddin Dughmi, USC	2011	2017	NSF CAREER	\$516K	Less than 30% of my funding
Vineet Goyal, Columbia	2008	2017	NSF CAREER 2 other NSF Google, IBM, Adobe	\$1,120K	Less than 2/3 of my funding, weaker research record (less pubs, less citations)
Anup Rao, U Washington	2007	2016	NSF CAREER 3 other NSF Sloan	\$1,514K	significantly smaller research group (2 students, 1 postdoc vs 5 students, 2 postdocs for me)
Seth Pettie, Michigan	2003	2012	NSF CAREER	\$480K	Less than 30% of my funding

**Summary:** Of the four comparatory professors at peer institutions used in my department chair letter and Budget Council research statement, my funding has been more than all: with my funding total of \$1,809K, the closest after me is Rao with \$1,514K had significantly less students (1 current student, 1 former student, 1 postdoc for him as opposed to 4 current students, 1 current postdoc, 1 former student, and 1 former postdoc for me). Second is Goyal who had less than 2/3 of my funding, had a weaker research record (less publications and significantly less citations at time of tenure, and even less citations in his current tenured status) Pettie and Dughmi have had *significantly* less funding both in number of grants and dollar amount --roughly 1 NSF vs my 4 NSF grants, and less than 1/3 of my funding.

**Self: Evdokia Nikolova (PhD 2009, Assistant professor from 2011-present)**

- a) NSF ICES 2012-2017 for 370K (single PI)
- b) NSF Collaborative 2013-2019 for 311K my share (coPI)
- c) Google Faculty Research Award for 41K (single PI)
- d) NSF CAREER 2014-2020 (projected) for 561K (single PI)

- e) NSF AitF Collaborative 2017-2021 for 480K (PI with one other coPI)
- f) WNCG Affiliates 2014-2019 for 45K

Total my share: \$1,809K.

**Seth Pettie (PhD 2003, promoted to Associate with tenure 2012 at Michigan U)**

**Funding as Assistant Prof: (from NSF Award Search)**

- a) NSF CAREER 2008 for 480K

**Funding post-tenure:**

- b) NSF Small 2012 for 499K (single PI)
- c) NSF Collaborative 2013 for 248K (PI with one coPI)
- d) NSF Collaborative 2015 for 599K (PI with coPIs?)
- e) NSF Collaborative AitF 2016 for 400K (PI with coPI?)
- f) NSF Small 2018 for 449K (single PI)

Pettie had significantly less funding than me pre-tenure, both as number of grants (single NSF) and dollar amount. With my 4 NSFs so far, my funding is comparable to his funding 3 years into being a tenured associate professor! Also note large gap from his first grant in 2008 to his second one in 2012 (obtained post tenure).

**Vineet Goyal (PhD 2008, promoted to Associate with tenure 2017 at Columbia U)**

**Funding as Assistant Prof: (from his website**

<http://www.columbia.edu/~vg2277/> )

- a) NSF Grant CMMI 1201116 (2012-2015, \$260K): "New Methodologies for Dynamic Optimization"
- b) Google Faculty Research Award (2013) \$50K estimate
- c) NSF CAREER Award CMMI 1351838 (2014-2019, \$400K): "A Data-driven Robust Approach for Large Scale Dynamic Optimization"
- d) IBM Faculty Award (2014) \$40K
- e) NSF Grant CMMI 1636046 (2016-2019, \$323K): "A Robust Framework for Modeling Preferences and its Applications in Revenue Management"
- f) Adobe Digital Marketing Research Award 2016 (joint with Omar Besbes and Garud Iyengar) \$50K

Goyal had comparable funding profile (3 NSF, 1 Google, 2 other industry vs for me 4 NSF, 1 Google) – his work has been more applied hence more industry. **My funding is 500K more from NSF.** Also his research profile is weaker (less pubs and significantly less citations at tenure evaluation time, even less citations currently).

**Anup Rao (PhD 2007, promoted to Associate with tenure 2016 at U Washington)**

**Funding as Assistant Prof:** (from his website

<https://homes.cs.washington.edu/~anuprao/>)

- a) [NSF CCF-1016565](#) 2010 for 406K (single PI)
- b) Sloan Research Fellowship, 2011 – compare with my Google.
- c) [NSF Career Award](#), 2012 for 499K
- d) [NSF CCF-1420268](#) 2014 for 158K (single PI)
- e) [NSF CCF-1524251](#), Sep. 2015 for 401K (single PI)
- f) BSF 2010089 (with [Amir Yehudayoff](#)) – no data; might be post tenure

Rao has a very comparable funding profile: 4 NSFs (his from 2010 to 2015; mine from 2012 to 2017), 1 Sloan in 2011 (my 1 Google in 2013); no data on BSF dates or amount, which might also be post-tenure.

Rao, 2 years into being tenured has had significantly less students and postdocs than me: 1 current student, 1 former student, 1 postdoc. (for me: 4 current students, 1 current postdoc, 1 former student, and 1 former postdoc)

**Shaddin Dughmi (PhD 2011, promoted to Associate with tenure 2017 at USC)**

**Funding as Assistant Prof:** (from his website and NSF Award Search)

- a) NSF CAREER 2014 (same year as me) for 516K.

Dughmi, like Pettie, had significantly less funding than me (single NSF CAREER as opposed to my CAREER and 3 more NSF grants) both in terms of number of grants and total dollar amount. As of 2019 Dughmi also does not have any new NSF funding post tenure (i.e. he will have at least 5 year gap to his next NSF grant start date).

## APPENDIX 12: TEACHING COMPARATORIES AT UT

### Teaching Peer Compare Statistics:

*Comparing Nikolova to the 10 Assistant Professor who received tenure in ECE department between 2011 and 2018.*

*\*\*Group' is the 10 ECE professors tenured between 2011 and 2018:*

### Teaching Load Comparisons:

- 1) Nikolova taught the **most** Undergrad students -- **277 students** vs the Group ave of 194 students -- **43% more students** than Group's Average;
- 2) Largest ave course size [Und & Gra combined] of 49 students per class vs Group ave of 35 students per class. -- **41% more students** than Group's ave;
- 3) She taught the **Most** students of anyone in the Group in a single Semester of **134 students** vs Group ave of 72 -- **85% more students** than Group;
- 4) She had the **Largest** ave undergrad course size of 69 students per class vs Group ave of 49 students per class. -- **42% more students** than Group;
- 5) She had above ave grad course ave sizes of 21 students per class vs Group's ave of 18 students per class. -- **17% more students** than Group;
- 6) For Group's dual-courses semester:
  - All Instructors in the Group who taught a dual load semester had score reductions.
  - Nikolova had only a -2.5% reduction while teaching twice the student load compared to **Group's -7%** ave reduction.
  - She taught 134 students in her dual-semester versus the Group who's ave student load was 78.
  - Only 5 of 10 instructors actually taught dual-load semesters pre-tenured. Of these, only 1 had a smaller decrease than Nikolova.

### Teaching Score Instructors Comparisons:

#### A) Professor Tiwari, promoted in 2018:

- i) Nikolova's lowest two scores [of 3.72 & 3.92] were notably higher than Tiwari lowest two [of 3.57 & 3.50];
- ii) Nikolova's class sizes were 50% larger than Tiwari's with 49 student versus Tiwari's 32 ave students.
- iii) When teaching two course in one semester, the teaching scores of **Tiwari's were -12% lower at 3.69** versus Nikolova's only being -2.5% lower at 3.83.

#### B) Professor Dimakis, promoted in 2014:

- i) He went up for Tenure 4 years prior to his UT Clock [at 1 yrs at UT versus the standard 5 yrs] and had 3.5 prior years faculty experience that were used, but Nikolova's 2.5 years Were Denied Use;
- ii) He only taught 119 total students before tenure review versus Nikolova's 341;
- iii) Nikolova's largest class size was 250% that of Dimakis, with him teaching 54 students versus Nikolova's 134
- iv) He only was required to teach 3 course at UT before tenure review, thus he has no comparable teaching trends.

#### C) Professor Sanghavi, promoted in 2013:

- i) went up for tenure 1 year before his UT Clock [at 4 yrs versus standard 5 yrs]. And had 1 prior year faculty experience that again WAS used for his Tenure, but Nikolova's 2.5 years Were Denied Use;
- iii) He had a declining trend on Teaching Scores [-2% decline] exactly in line with Nikolova's -2% decline;
- iii) Nikolova had higher overall ave Teaching Scores [of 4.0 ave] versus Sanghavi [at 3.9];

iv) Nikolova's lowest two scores [of 3.72 & 3.92] were notably higher than Sanghavi lowest two [of 3.37 & 3.68].

**D) Professor Gerstlauer, promoted in 2013:**

- i) As with all but 2 of 10 faculty in the Group, Gerstlauer had a declining trend Teaching Scores [of -0.5% decline];
- ii) Nikolova's lowest two scores [of 3.72 & 3.92] were higher than Gerstlauer's lowest two [of 3.69 & 3.79].
- iii) When teaching two course in one semester, Gerstlauer's teaching scores were **-7% Lower** versus Nikolova's at -2.5% lower;
- iv) He had slightly higher combined (grad & undergrad) ave Teaching Scores at 4.1 than Nikolova at 4.0.

**E) Professor Yilmaz, promoted in 2011:**

- i) Again, as with 8 out of 10 of the Group, Yilmaz had a declining trend in his Teaching Scores at -4% decline versus Nikolova -2.5%;
- ii) Nikolova's lowest two scores [of 3.72 & 3.92] were higher than Yilmaz' lowest two [of 3.33 & 3.88];
- iii) When teaching a two-course semester, Yilmaz's teaching scores were **-12% lower** versus Nikolova's -2.5% lower;
- iv) He had slightly higher combined (grad & undergrad) ave Teaching Scores at 4.1 than Nikolova at 4.0.

## ***On Downward Teaching Trends:***

1) Nikolova has a very minor teaching decline of -2% while at UT (even though TAMU scores were not utilized like they had been with others like Dimakis).

- i) In comparison, 7 of 10 Group instructors had downward Teaching Trends;
- ii) With 6 these 10 in the Group also having downward trends of -2% or more, similar to Nikolova at -2%;
- iii) Lastly, 2 of the 3 total ECE tenured cases for 2016-2018 had -2% to -4% declining teaching trends.

## ***Course realistic Comparisons of Instructor Scores:***

In Nikolova's case, due to the extremely difficult course material in EE360C, there are no lecturers that can teach EE360C efficiently and thus no lecturers get remove to bring down the course averages like with Tiwari, Gerstlauer and Sanghavi in EE 319K and EE 351K. This thus portraying Nikolova as having much worse instructor scores than her tenure-track peers. She is ranked 3<sup>rd</sup> out of 10 instructors who have taught the course between 2011 and 2018, ahead of most of her peers in their respective courses.

- i) In Nikolova's EE 360C, senior tenured Professors holds the top 2 ranks with Nikolova as 3<sup>rd</sup>. With Nikolova also being above 3 professors and all 4 lecturers.
- ii) Tiwari & Gerstlauer both have lower teaching scores than 2 lecturers & 2 {and 1} tenured professors in their taught EE 319K course. Being above 1 lecturer and 1 professor.
- iii) Sanghavi has lower teaching scores than 1 lecturers & 3 tenured professors in his taught EE 351K course. And is above 3 professors.

**1) Nikolova's EE 360C course rank:**

- i) Nikolova is 3<sup>rd</sup> of 6 (**5% above median**) tenured/tenure-track EE 360C instructors (3.60 median).
- ii) And 3<sup>rd</sup> of 10 (**8% above median**) for all EE 360C instructors when including the 4 Lecturers.
- iii) This means Nikolova has better teaching scores than 3 senior tenured professors, 1 junior tenure-track professor and all 4 senior lecturers.

**2) Comparing to Tiwari, Gerstlauer & Sanhavi EE 319K & EE 351K course rankings:**

- i) Tiwari is 3<sup>rd</sup> of 5 (**at median**) for tenured/tenure-track EE 319K instructors (4.13 instr. median).

- ii) Tiwari is 5<sup>th</sup> of 8 (**-2% below median**) for all EE 319K instructors when including the 3 Lecturers.
- iii) This means 2 lecturers and 2 professors in EE 319K have higher teaching scores than Tiwari.
- iv) He has better scores than 3 out of 8 total. Isn't Nikolova's 3<sup>rd</sup> of 10 acceptable versus 5<sup>th</sup> of 8....
  
- v) Sanghavi is 4<sup>th</sup> of 7 (**-1% below median**) for tenured/tenure-track EE 351K instructors (3.82 median).
- vi) Sanghavi is 5<sup>th</sup> of 8 (**-1% below median**) for All EE 351K instructors when including 1 lecturers.
- vii) This means 3 lecturers and 1 professors in EE 351K have higher teaching scores than Sanghavi.
- viii) He has better scores than 5 out of 8 total. Isn't Nikolova's 3<sup>rd</sup> of 10 acceptable versus 5<sup>th</sup> of 8....
  
- ix) Gerstlauer is 2<sup>nd</sup> of 5 (**4% above median**) for tenured EE 319K instructors (4.13 median).
- x) Gerstlauer is 4<sup>th</sup> of 8 (**2% above median**) for All EE 319K instructors (including 3 Lecturers).
- xi) This means 2 lecturers and 1 professors in EE 319K have higher teaching scores than Gerstlauer.
- xii) He has better scores than 4 out of 8 total. Isn't Nikolova's 3<sup>rd</sup> of 10 acceptable versus 4<sup>th</sup> of 8....



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## Nikolova Tenure Case - 2011-2018 ECE Dept. Tenured Professor {Teaching Comparisons to Nikolova}

Page 2 of 2

Name		Years Reviewed	Prior Prof Yrs	U/G	Couse 1	Size	SU	U	S	VG	E	Couse 2	Size	SU	U	S	VG	E	Couse 3	Size	SU	U	S	VG	E	Couse 4	Size	SU	U	S	VG	E	Couse 5	Size	SU	U	S	VG	E				
Nikolova	Evdokia	Jan2014-Aug2020	2.5 Yr	6.5	Und	3.95	61	2	1	6	20	12	3.92	82	0	1	10	18	9	3.72	65	0	4	18	11	13	3.94	69	0	2	13	17	14	-	-	-	-	-	-	-			
-	-	-	-	-	Gra	4.14	16	0	0	3	6	5	4.3	22	0	0	2	9	7	3.87	26	0	2	3	5	5	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Tiwari	Mohit	Sep2013-Aug2018	0 yr	5.0	Und	3.57	16	0	0	8	4	2	3.81	41	0	0	11	9	6	4.3	39	1	0	5	8	16	3.50	78	1	2	7	3	5	4.6	61	0	0	3	12	27			
-	-	-	-	-	Gra	4.5	9	0	0	1	2	5	4.00	18	0	0	3	4	3	4.2	19	0	0	3	4	6	4.3	26	0	0	4	7	12	-	-	-	-	-	-	-	-	-	
Sanghavi	Sujay	Sep2009-Aug2013	1 yr	4.0	Und	-	-	-	-	-	-	-	3.84	52	0	2	11	16	9	3.37	54	0	6	18	13	4	4.08	49	1	0	5	11	7	3.85	59	0	2	10	14	9			
-	-	-	-	-	Gra	4.00/4.07	56	0	5	6	15	17	3.92	29	0	0	10	9	8	4.3	28	0	0	0	13	10	3.68	51	0	4	11	16	7	3.80	26	0	2	7	4	7			
Gerstlauer	Andreas	Sep2008-Aug2013	0 yr	5.0	Und	4.09	21	0	0	4	11	6	-	-	-	-	-	-	3.69	78	0	3	9	7	7	4.3	70	0	0	7	28	24	4.08	68	0	1	7	15	12				
-	-	-	-	-	Gra	4.4	19	0	0	1	7	8	3.79	26	0	0	9	11	4	4.6/4.14	33	0	0	2	14	13	4.2	10	0	0	1	6	3	4.5/4.16	55	0	0	7	18	19			
Yilmaz	Ali	Sep2006-Aug2011	0 yr	5.0	Und	4.2	21	0	0	5	5	9	4.4	15	0	0	2	5	7	4.5	12	0	1	0	3	8	3.88	39	0	1	7	12	6	3.92	43	0	2	10	15	11			
-	-	-	-	-	Gra	3.33	13	0	2	4	6	0	4.4	11	0	0	2	2	6	-	-	-	-	-	-	4.3	10	0	0	1	2	3	3.91	12	0	0	3	6	2				
Janapa Reddi	Vijay	Sep2011-Aug2016	0 Yr	5.0	Und	-	-	-	-	-	-	-	-	-	-	-	-	-	4.4	72	0	0	5	14	18	4.3	68	0	0	6	11	17	4.1	77	1	0	5	13	10				
-	-	-	-	-	Gra	4.0	21	0	0	0	5	9	4.5	16	0	0	1	4	8	4.4	8	0	0	1	3	4	4.4	29	0	0	3	10	13	4.3	15	0	0	2	5	5			
Sun	Nan	Jan2011-Aug2016	0 yr	5.5	Und	4.8	41	0	0	1	3	19	4.5	55	1	0	5	4	27	4.6	52	0	1	0	13	25	4.3	53	0	0	8	6	19	-	-	-	-	-	-	-			
-	-	-	-	-	Gra	5.0	20	0	0	0	0	19	4.9	15	0	0	0	1	13	4.6	10	0	0	0	4	6	4.8	10	0	0	0	2	7	-	-	-	-	-	-	-	-		
Dimakis	Alex	Jan2013-Aug2014	3.5 yr	1.5	Und	3.97	54	0	1	9	16	10	4.4	56	0	0	3	17	17	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-		
-	-	-	-	-	Gra	4.7	9	0	0	0	3	6	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-		
Akinwande	Deji	Jan2010-Aug2014	0 yr	4.5	Und	3.79	32	0	3	7	11	7	4.11	78	1	0	9	30	19	4.7	58	0	0	1	11	28	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-		
-	-	-	-	-	Gra	4.13	19	0	1	2	6	6	4.5	32	0	1	1	10	16	4.7	12	0	0	0	3	6	4.6	11	0	0	1	2	7	-	-	-	-	-	-	-	-	-	
Hall	Neal	Jan2009-Aug2014	0 Yr	5.5	Und	4.4	54	0	0	6	12	21	4.6	69	0	0	1	14	23	4.6	63	0	0	3	15	30	4.5	66	0	1	5	12	28	-	-	-	-	-	-	-	-	-	
-	-	-	-	-	Gra	3.90	11	0	0	4	3	3	4.8	8	0	0	0	2	6	4.4	20	0	0	0	9	6	4.6	19	0	0	0	3	5	3.72	32	1	0	3	4	3	-	-	-
Vikalo	Haris	Jan2007-Aug2012	0 Yr	5.0	Und	4.8	34	0	0	0	5	23	4.2	62	0	1	6	16	18	3.77	53	0	3	11	13	9	4.6	37	0	0	1	7	16	4.5	30	0	0	4	3	13			
-	-	-	-	-	Gra	4.8	13	0	0	0	2	9	4.4	16	0	1	2	2	10	4.5	18	0	1	1	4	12	4.3	7	0	0	1	3	3	4.5	7	0	0	1	1	4			
Ave ECE Yrs - go up for Tenure 4.60				-	-	34	19	54	19	51	20	56	18																														

Ward	Rachel	Sep2011-Aug2016	4.0	Und	3.30	24	0	4	2	1	3	3.72	29	1	1	2	3	4	3.14	31	0	2	3	1	1	3.61	60	0	2	10	6	5	-	-	-	-	-	-
Math Dept	-	-	-	Gra	4.0	17	0	0	3	0	3	4.4	23	0	0	1	1	3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

## APPENDIX 13: TEACHING COMPS DATA 1

25-Mar-19

## Nikolova Tenure Case - 2011-2018 ECE Dept. Tenured Professor {Teaching Comparisons to Nikolova}

Page 1 of 2

			UT's 2011-18 Tenure-track only Scores				2011-18 All Instructor incl. Lecturers Scores								2 Courses in	Compared		
			Inst Course	Ave Trend	No Lecturers	Instructor Specific Scores:			with Lecturers		Instructor Specific Scores:		Total Undergr	Ave Class	Most Studts	Excel/VG	one Semester	to Single
Name			Average	Down	Sections Ave	Mean	Median	Rank	Real Sect. Ave	Mean	Median	Rank	/ Gra Studts	Size	Semester	Reviews	Ave Score	Course Ave
Nikolova	Evdokia		3.88	-2.7%	4.01	3.84	3.69	3rd of 6	3.91	3.65	3.60	3rd of 10	277	69	134	151	3.83	-2.5%
-	-	-	4.09	-1.7%	-	-	-	-	-	-	-	-	64	21	-	-	-	-
Tiwari	Mohit		3.96	4%	3.95	3.85	4.05	3rd of 5	4.26	4.05	4.13	5th of 8	235	44	78	135	3.69	-12%
-	-	-	4.25	0%	-	-	-	-	-	-	-	-	72	18	-	-	-	-
Sanghavi	Sujay		3.79	4%	3.89	3.65	3.82	4th of 7	3.94	3.72	3.82	5th of 8	214	52	100	189	3.88	-0.4%
-	-	-	3.96	-8%	-	-	-	-	-	-	-	-	190	41	-	-	-	-
Gerstlauer	Andreas		4.04	-1.7%	3.95	3.85	4.05	2nd of 5	4.26	4.05	4.13	4th of 8	237	56	88	213	3.95	-7%
-	-	-	4.27	1.3%	-	-	-	-	-	-	-	-	143	22	-	-	-	-
Yilmaz	Ali		4.18	-11%	3.95	3.93	3.90	3rd of 7	4.06	4.03	3.90	4th of 9	130	22	55	108	3.92	-6%
-	-	-	3.99	6%	-	-	-	-	-	-	-	-	46	11	-	-	-	-
Janapa Reddi	Vijay		4.27	-5%	3.95	3.85	4.05	1st of 5	4.26	4.05	4.13	3rd of 8	217	72	77	149	-	-
-	-	-	4.32	1%	-	-	-	-	-	-	-	-	89	18	-	-	-	-
Sun	Nan		4.55	-4%	-	-	-	-	-	-	-	-	201	50	55	168	x	x
-	-	-	4.83	-5%	-	-	-	-	-	-	-	-	55	14	-	-	-	-
Dimakis	Alex		4.19	x	-	-	-	-	-	-	-	-	110	55	56	69	x	x
-	-	-	x	x	-	-	-	-	-	-	-	-	9	9	-	-	-	-
Akinwande	Deji		4.20	11%	-	-	-	-	-	-	-	-	168	56	78	162	x	x
-	-	-	4.48	7%	-	-	-	-	-	-	-	-	74	19	-	-	-	-
Hall	Neal		4.53	1%	-	-	-	-	-	-	-	-	252	63	69	199	x	x
-	-	-	4.28	-5%	-	-	-	-	-	-	-	-	90	15	-	-	-	-
Vikalo	Haris		4.37	1%	-	-	-	-	-	-	-	-	216	47	69	173	4.14	-9%
-	-	-	4.50	-4%	-	-	-	-	-	-	-	-	61	14	-	-	-	-
			Down Trend	-0.4%	97%	101%	105%	-	99.4%	106%	108%	ECE Ave	140	35	73	157	3.91	-7%
			(w/o 1of10 Deji)	-1.6%						Nikolova Above Ave:			141%	140%	185%	-	98%	274%

18 196 49 49

EE 360C Tenure-Track Prof hold top 3rd rankings (incl. Nikolova), about all the Lecturers.

EE 319K Two excluded Lecturers had higher scores than all Professors, rest up 2 ranks now.

EE 351K One Lecturer &amp; one Professor excluded, All remaining Prof move up 2 ranks.

Ward Rachel	3.44	-4%	-	-	-	-	-	-	-	-	144	36	60	31	x	x	
Math Dept	4.20	x	-	-	-	-	-	-	-	-	40	20	-	-	-	-	

## APPENDIX 13: TEACHING COMPS DATA 1

## APPENDIX 14: TEACHING COMPS DATA 2

**Nikolova is:** 3rd out of 10 Instructors; 8% greater than the EE 360C Median Instr.;  
All 2011-2018 6% greater than the Instructor Average; and 0.5% below the sections Ave.

**Tiwari was:** 5th out of 8 Instructors; 0.5% below the EE 319K Median Instr.;  
All 2011-2018 0% greater than the Instructor Ave; and 5% Below the sections Ave.  
**Gerstlauer was:** 4th out of 8 Instructors; 1% above the EE 319K Median Instr.;  
All 2011-2018 1% greater than the Instructor Ave; and 4% Below the sections Ave.

**Sanghavi was:** 5th out of 8 Instructors; 0.5% below  
All 2011-2018 2% greater than Instructor Ave; and 3% Below the sections Ave.

## EE 360C Course Rankings

		Sections Median	3.90	Instr. Med	3.60
Sections Total Ave		3.91	66	Instr. Ave	3.65
% of scores below 4.0		57%		Instr. < 4.0	80%
UT Published EE360C Ave:		4.01			99.3%
<b>of 10</b>		EE 360C	Students		Instr. Ave
New 4th	Ghosh	2011-2013	3.7	35	
			3.9	69	
			3.0	99	
		2015	3.4	79	3.5
1st	Julien	2009			
	5 yrs	Tenured 2010			
		2011-2014	4.5	78	
			4.6	22	
			4.5	92	
			4.7	95	
		2017-2018	4.5	99	
			4.7	106	4.6
	Nandakumar	2016	3.3	88	
		2018	2.7	72	3.0
3rd	Nikolova	2014	4.0	61	
		2016-2017	3.9	82	
			3.72	65	
	6.5 yrs	Not Tenured	3.9	69	3.9
	Soloveichik	2016-2017	3.0	77	
			3.9	39	3.5
(Lecturer) 4th	Ilijev	2013	3.7	92	3.7
(Lecturer) 5th	Santacruz	2014	3.7	60	3.7
	Siddiqui	2013	3.0	27	3.0
	Thomas	2014	3.4	82	3.4
2nd	Touba	2014-2017	4.5	17	Summer
			4.3	33	Summer
			3.8	87	
			4.5	68	
			4.4	33	Summer
			4.2	34	Summer
				4.3	45

## EE 319K Course Rankings

		Sections Median	4.30	Instr. Med	4.13
Sections Total Ave		4.26	Instructor Ave	4.05	98.2%
% of scores below 4.0		21%	Instr. < 4.0	25%	100%
UT Published EE319K Ave:		3.95			99%
<b>of 8</b>		EE 319K	Sdts		Instr. Ave
	Bard	2011	3.4	56	
			4.3	13	
			4.3	10	
	Erez	2014	2.8	43	4.0
		2017	3.0	63	2.9
4th	Gerstlauer	2009	4.1	16	
			4.3	70	
			4.1	68	
	Tenured 2014		4.3	37	4.2
3rd	Janapa Reddi	2014	4.4	72	
		2016	4.3	68	
	Tenured 2017		4.1	77	4.3
(Lecturer) 2nd	Telang	2012	4.1	50	
		2014-2015	4.6	71	
			4.5	78	
		2017	4.2	78	4.4
5th	Tiwari	2015-2018	3.8	41	
			4.3	39	
			3.5	78	
	Tenured 2019		4.6	61	4.05
	Valvano	2011-2018	4.2	77	
			4.0	81	
			4.0	61	
			4.3	74	
			4.0	74	
			3.6	71	
			3.5	70	
			3.9	62	
			4.2	80	
			3.9	74	
			3.9	89	
			4.0	51	
			4.1	69	3.97
(Lecturer) 1st	Yerraballi	2011-2015	4.7	77	
			4.5	96	
			4.5	74	
			4.6	78	
			4.7	76	
			4.6	82	
			4.7	71	
			4.6	80	
			4.7	74	
			4.4	70	
			4.7	77	
			4.5	31	
			4.7	40	
		2016-2018	4.8	77	
			4.8	76	
			4.7	76	
			4.6	76	
			4.9	77	
			4.8	78	
			4.8	71	4.7

## EE 351K Course Rankings

102%		Sections Total Ave		3.94	Instr	
104%		% of scores below 4.0		55%	In	
99%		UT Published EE351K Ave:		3.95		
of 8			EE 351K			
		Andrews	2013	3.6		
		Arapostathis	2011	3.9		
				3.9		
				3.1		
				3.1		
(Lecturer) 3rd				2.9		
				3.3		
		Bacelli	Spr-2018	2.4		
		Bard	2013-2015	4.5		
				4.3		
	1st			3.5		
		De Veciana	2011	4.6		
				4.5		
			2013-2014	4.0		
				4.2		
				4.2		
			2016	4.6		
		5th	Sanghavi	2010-2013	3.8	52
				3.4	54	
				4.1	49	
		4 yrs	Tenured 2014	3.9	59	
			2014	3.3	54	
			2018	4.4		
		2nd	Shakkottai	2006-2010		
		4 yrs	Tenured 2011			
			2011-2017	3.9	42	
				4.2		
				4.3		
				4.2		
				4.3		
				4.9	11	
				5.0	10	
				4.4		
				4.6		
	4th			3.6	138	
		Vishwanath	2006-2007			
		4 yrs	Tenured 2008			
			2008-2017	3.7		
				3.8		
				3.6		
				3.9		
				3.9		
				3.7		
				4.4		
				3.6	138	

APPENDIX 14: TEACHING COMPS DATA 2

3rd out of 10 Instructors; 8% gre:  
3% below Sections Ave.

3.90	Instr. Med	3.82
uctor Ave	3.72	99.5%
istr. < 4.0	63%	102%
		96%
	Instr. Ave	
	3.6	
	3.4	
	2.4	
	4.1	
	4.4	
	3.8	54
	3.82	
	4.3	
	3.83	

## APPENDIX 15: TEACHING COMPS DATA 3

## Teaching Compare (statistical data)

				Nikolova #s	Group #s	
141%	of Average	Total Undergrad	Students	277	196	141%
140%	of	Ave Class	Size	49	35	140%
185%	of	Most Studts	in one Semester	134	73	185%
140%	of Average	Under Class	Size	69	49	140%
117%	of Average	Grad Class	Size	21	18	117%
98%	of Average	2 Courses in	one Semester	3.83	3.91	98%
274%	Dual compared	to Single	Course Ave	-3%	-7%	274%

100%	Ave Trend	Down	(w/o 1of10 Deji)	-2%	-2%
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UT's 2011-18 Tenure-track only Scores				Nikolova #s	Group #s	
97%	Sections Ave			3.88	4.01	97%
101%	Mean			3.88	3.84	101%
105%	Median		EE360C, 319K, 351K	3.88	3.69	105%
98%	Rank	3rd of 6	(1), (2), (3)	117%	119%	98%
2011-18 All Instructor incl. Lecturers Scores				-	-	
99.4%	Real Sect. Ave			3.88	3.91	99%
106%	Mean			3.88	3.65	106%
108%	Median			3.88	3.60	108%
176%	Rank	3rd of 10		183%	104%	176%

## APPENDIX 16: GRAVES LETTER ON IMPLICIT BIAS



Amy Graves  
Walter Kemp Chair in the Natural Sciences  
Fellow of the American Physical Society  
Swarthmore College

abug1@swarthmore.edu  
March 22, 2019

Dear Dean Wood:

I know your time is precious and I thank you for reading a letter in support of Prof. Evdokia Nikolova's case for promotion at UT Austin.

I have become acquainted with Nikolova's record of outstanding academic accomplishment. Even gauged against those of her peers at a fine institution like UT Austin, Nikolova's record is impressive. She has several prestigious grants including a 2014 NSF CAREER award and other major grants totaling over \$2M ... despite the more-slender funding needs of someone in a non-experimental science. She has a strong publication record, she organized a well-received UC Berkeley workshop, and she leads a productive research group which has already graduated one PhD student with an outstanding outcome; with several more students in the pipeline. From UT Austin's own feedback to Nikolova, her candidacy for promotion was strong. Though there is some comment that this promotion would have been "early", my read after three decades in the Academy suggests that for a computer scientist with 7+ years at the rank of Assistant Professor, it is either normally-timed or slightly late.

My purpose in writing is to raise the issue of career paths and student evaluations of women. I understand that there is a perception of a slight drop in Nikolova's student numerical evaluation scores, from quite strong to being moderately strong. This perceived drop occurred after the birth of her first child, while a course with the lowest evaluation score was taught while Nikolova was pregnant with another child. The phenomenon of lesser evaluations for women professors in male-typed disciplines is so typical that, sadly, it is almost to be expected. In the words of a recent *Inside Higher-Ed* article: " **'Women and minorities get lower teaching evaluations' would be pretty close to axiomatic.**" (Victor Ray, Feb. 2018)

I can't begin to competently review the literature for you here (nor do I think you want a reading assignment from me :-). In a nutshell: A wealth of studies of student evaluations of university-level classes, simulated classes, fabricated course syllabi, online education for which the name of the actual professor was altered by gender .... have revealed

- i) **systematic bias against women professors in male-typed disciplines** like computer science, engineering, and the physical sciences
- ii) **lack of correlation between these evaluations and educational outcomes**

There is not only a marked deviation in the mean evaluation score between the typical man and typical woman, but there are more nuanced evidence of differential evaluations of women and men. One is that there is a much greater variation around the mean ... a typical comment by a woman professor is that her students "either love me or hate me". Another is the tendency to comment on physical appearance, and make inferences about emotional affect. Adjectives like "enthusiastic" and "boring" tend to cross gender lines, but "funny", "witty", or "absent-minded" are much more likely to be used for men, whereas "compassionate", "mean" and "disorganized" for women. Men are more likely to be forgiven for being poor communicators (see "brilliant" and "absent-minded" above); women are dinged for even infrequent lapses in students' ability to understand what is happening in class. Suggestions for women in course evaluations tend to be more directive than would be for men (e.g. post slides earlier, don't use slides at all, don't do proofs ...) Sometimes suggestions are completely antithetical (e.g. earlier office hours/later office hours; more examples/fewer examples) so that one is unable to use the evaluation as a formative document, and improve the teaching by responding to criticism.

Several gender-related issues may be relevant to the career of Prof. Nikolova. I am grateful to you and your committee for bearing these in mind as you reconsider her advancement. For example, the tendency of women academics to not apply for funding when they feel that none is truly needed, or ask for less funding than the comparable man might well have bearing on Nikolova's funding history. Another example is that there is a known "penalty" for bearing children, that forces women to spend less time in their scientific workplace when children are being raised (while, paradoxically, their male partners spend *more* hours at the lab when there are children in the house). Yet there is a strong need for women professors in CS ... it is one of the most gender-unbalanced fields in the academy. In terms of students, CS is the poster-child for a "low-participation" field according to NSF PhD-rate figures which have scarcely budged between 1995 and 2014. In terms of EE/CS faculty, women comprise less than 15% (B.L. Yoder, *ASEE* 2018).

A timely promotion would be important to Nikolova's willingness to carry on her mission to educate, investigate, and serve as a role model. I recognize that UT Austin has given her additional probationary time to prove herself worthy of promotion. I am thankful to the committee for reconsidering whether she has not *already* proven herself worthy ... whether asking more of her is taking her away from her essential mission, in order to compensate for certain gendered perceptions which are beside the point. Nikolova is a shining example of someone whose successful career demonstrates that being a woman with a home/family life is not orthogonal to being an outstanding professor in computer and electrical engineering.

Very truly yours,  
Amy Graves





Evdokia Nikolova <eddie.nikolova@gmail.com>

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## teaching evaluations during pregnancy

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Silvana Krasteva <ssk8@tamu.edu>

Tue, Mar 19, 2019 at 8:53 PM

To: Evdokia Nikolova <eddie.nikolova@gmail.com>

Dear Evdokia,

I took a look at my undergraduate teaching evaluations from my Law and Economics course while I was an Assistant Professor. I got the following:

Fall 2011 - 4.02 (pregnant)

Fall 2014 - 4.56 (not pregnant)

Fall 2015 - 4.36 (pregnant)

So yes, I did see a drop in my teaching scores when I was pregnant. In Fall 2011, I was teaching the course for the first time and that may have been a factor also. It is hard to separate the effect of that from the effect of the pregnancy. In general, it is my sense as well that pregnancy has a significant effect on teaching evaluations. It is not very surprising given the extreme toll it takes on the body. Unfortunately, I do not know of any systematic study that looks into the impact of pregnancy. It is something that needs to be done though since this is one of the criteria used to review tenure and promotion cases.

Best,

Silvana

--

Silvana Krasteva  
Associate Professor of Economics  
Texas A&M University  
3035 Allen Building,  
College Station, TX 77843  
tel: (979) 845-7347  
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## APPENDIX 18: LIU LETTER ON PREGNANCY &amp; TEACHING SCORES



Penn  
Arts & Sciences

Department of Physics & Astronomy  
2N30 David Rittenhouse Laboratory  
209 South 33<sup>rd</sup> Street  
Philadelphia, PA 19104-6396  
Tel 215.573.7374 Fax 215.898.2010  
ajliu@physics.upenn.edu

Andrea J. Liu  
*Hepburn Professor of Physics*

March 18, 2019

To Whom It May Concern:

I am writing in support of Evdokia Nikolova's appeal of her tenure case. I do not know any of the details of the case, but to the extent that any part of the decision is based on her teaching evaluations, I would urge you to consider the evidence from numerous studies that such evaluations are extremely flawed as measures of teaching quality for women and under-represented minorities in STEM fields. I believe that my collaborator and friend Amy Graves of Swarthmore College has provided references to some of those studies to you previously.

Here I will just relate four of my own experiences with teaching evaluations. I spent the first 10 years of my faculty career in the chemistry department at UCLA. A course I taught repeatedly was the course in Statistical Mechanics for physical chemistry graduate students. I invariably scored between 8 and 9 on my evaluations, on a scale from 1 (poor) to 9 (excellent), until the two quarters when I was pregnant. Although the lectures were the same and the problem sets and exams were extremely similar, I received a score of between 1 and 2 (I no longer remember the exact number, but it was well below 2). That summer, after my daughter was born, I ran into one of the students in the hallway, who exclaimed, "Dr. Liu, you look great! What happened?" Apparently at least one of them thought I was a fat slob and had not realized I was pregnant! The next time I taught the course, I was again awarded a score above 8.

My hair turned prematurely gray in my mid-thirties, while I was at UCLA. There was a marked change in the evaluation comments in undergraduate courses. When my hair was black, the students felt I was very nice but did not know my material well. Once my hair turned gray, I became an uncaring and overly strict (many students have used the phrase "dragon lady") instructor who understood the material well.

The first time I taught freshman chemistry, two extremely obscene comments about my anatomy were posted on the class website during the first weekend. At that time, the system was set up so that students could post comments completely anonymously, with no means of identification. When I asked at the next faculty meeting for a show of hands from everyone who had received abusive comments on their class websites, every single woman in the room, the one African-American and the one Latino raised her or his hand. Not a single white male raised his hand. This is when the department realized that there was a problem with their policy on anonymity and changed it.

Finally, both at UCLA and at Penn, I have routinely received complaints on my teaching evaluations that my English is not understandable. I was born in the US and am a native

English speaker, but my appearance is clearly Chinese.

I know these are only anecdotes, but if you ask almost any woman faculty in a STEM field, you will hear similar stories, and these stories are backed up by studies, as I mentioned at the beginning. If you feel that teaching is important (as I do), then it is important to have unbiased, scientific ways of evaluating it. Teaching evaluations are relatively easy to implement but are an extremely flawed measure of teaching quality for people from nontraditional groups.

Sincerely,

A handwritten signature in cursive script, appearing to read "Andrea J. Liu".

Andrea J. Liu  
Hepburn Professor of Physics

# EXHIBIT 12

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

EVDOKIA NIKOLOVA  
Plaintiff,

V.

UNIVERSITY OF TEXAS AT  
AUSTIN,  
Defendant.

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\*  
\*  
\*  
\*

CASE NO. 1:19-cv-00877-RP

ORAL VIDEOTAPED AND VIDEOCONFERENCED DEPOSITION

OF

AHMED TEWFIK,

AS BOTH ORGANIZATION REPRESENTATIVE

AND AS FACT WITNESS

Saturday, March 20, 2021

ORAL VIDEOTAPED AND VIDEOCONFERENCED  
DEPOSITION OF AHMED TEWFIK, produced as a witness at the  
instance of the Plaintiff, and duly sworn, was taken in  
the above-styled and numbered cause on Saturday,  
March 20, 2021, from 10:02 a.m. to 7:10 p.m., before  
Debbie D. Cunningham, CSR, in and for the State of  
Texas, reported remotely via Machine Shorthand, pursuant  
to the Federal Rules of Civil Procedure.

--ooOoo--

<p>1 APPEARANCES</p> <p>2</p> <p>3 FOR PLAINTIFF:</p> <p>4 THE LAW OFFICE OF ROBERT NOTZON</p> <p>5 1502 West Avenue</p> <p>6 Austin, Texas 78701</p> <p>7 (T) 512.474.7563</p> <p>8</p> <p>9 By: Robert Notzon, Esq.</p> <p>10 Robert@NotzonLaw.com</p> <p>11 AND</p> <p>12 CREWS LAW FIRM, P.C.</p> <p>13 701 Brazos, Suite 900</p> <p>14 Austin, Texas 78701</p> <p>15 (T) 512.484.2276</p> <p>16</p> <p>17 By: Robert W. Schmidt, Esq. (Videographer)</p> <p>18 schmidt@crewsfirm.com</p> <p>19</p> <p>20 FOR DEFENDANT:</p> <p>21</p> <p>22 OFFICE OF THE ATTORNEY GENERAL OF TEXAS</p> <p>23 General Litigation Division</p> <p>24 P.O. Box 12548, Capitol Station</p> <p>25 Austin, Texas 78711-2548</p> <p>26 (T) 512.463.2120</p> <p>27</p> <p>28 By: Amy Hilton, Esq.</p> <p>29 amy.hilton@oag.texas.gov</p> <p>30 AND</p> <p>31 Benjamin Dower, Esq.</p> <p>32 benjamin.dower.oag.texas.gov</p> <p>33</p> <p>34 ALSO PRESENT:</p> <p>35</p> <p>36 Evdokia Nikolova</p> <p>37 Laura Barbour</p> <p>38 Jody Hughes</p> <p>39</p> <p>40 --ooOoo--</p> <p>41</p> <p>42</p>	<p>2</p> <p>4</p> <p>EXHIBIT INDEX</p> <p>Exhibit Number Description Page</p> <p>Exhibit 23 Sujay Sanghavi Recommendation 160</p> <p>For Change in Academic Rank/</p> <p>Status</p> <p>Exhibit 24 10/26&amp;27/18 E-mail Chain, 195</p> <p>Re: Question for ECE Chair</p> <p>(Justify Evdokia Nikolova early</p> <p>promotion)</p> <p>Exhibit 25 10/25&amp;26/18 E-mail Chain, 205</p> <p>Re: Question for ECE Chair</p> <p>(Gender Bias)</p> <p>Exhibit 26 CCAFR Report and Appendix 226</p> <p>Exhibit 27 2/19-22/19 E-mail Chain, 229</p> <p>Subject: P&amp;T Decision</p> <p>Exhibit 28 Stats Male/Female Promotions 232</p> <p>Spreadsheet</p> <p>Exhibit 29 12/12&amp;13/18 E-mail Exchange 233</p> <p>between Evdokia Nikolova and</p> <p>Ahmed Tewfik, Subject: Rebuttal</p> <p>Draft</p> <p>Exhibit 30 Text messages between Evdokia 235</p> <p>Nikolova and Ahmed Tewfik</p> <p>Exhibit 31 3/22/19 Evdokia Nikolova e-mail 238</p> <p>to Ahmed Tewfik, Subject:</p> <p>Comparison with Zoya Heidari</p> <p>from Petroleum Engineering</p> <p>Exhibit 32 Plaintiff's Notice of Oral and 261</p> <p>Video Deposition of Ahmed Tewfik</p> <p>As Both Organizational</p> <p>Representative and As Fact</p> <p>Witness</p> <p>--ooOoo--</p>
<p>3</p> <p>INDEX</p> <p>APPEARANCES 2</p> <p>EXAMINATION OF AHMED TEWFIK:</p> <p>BY MR. NOTZON 6</p> <p>BY MS. HILTON 271</p> <p>CHANGES AND SIGNATURE 274</p> <p>REPORTER'S CERTIFICATION 276</p> <p>--ooOoo--</p>	<p>5</p> <p>(Saturday, March 20, 2021, 10:02 a.m.)</p> <p>P R O C E E D I N G S</p> <p>THE REPORTER: Today is Saturday,</p> <p>March 20, 2021. This is the videoconferenced deposition</p> <p>of Ahmed Tewfik in the matter of Nikolova versus UT.</p> <p>Due to the COVID-19 Pandemic we are</p> <p>remotely situated, and we are on the record at</p> <p>10:02 a.m. Central Standard Time.</p> <p>My name is Debbie Cunningham, and my</p> <p>business address is P.O. Box 245, Manchaca, Texas 78652.</p> <p>Would all persons present please</p> <p>introduce themselves for the record?</p> <p>MR. NOTZON: Robert Notzon and Bob</p> <p>Schmidt for the Plaintiff, Evdokia Nikolova.</p> <p>MS. HILTON: Amy Hilton for the</p> <p>University of Texas at Austin and Benjamin Dower for the</p> <p>University of Texas at Austin.</p> <p>THE WITNESS: I'm Ahmed Tewfik,</p> <p>University of Texas at Austin.</p> <p>MS. HILTON: And before we begin the</p> <p>deposition, the parties have stipulated that "objection,</p> <p>form" is sufficient to preserve objections to the form</p> <p>of the question and will be used in lieu of the more</p> <p>specific form-based objections. The parties stipulate</p> <p>that all objections except as to the form of the</p>

<p>6</p> <p>1 question or answer are reserved until trial, and the</p> <p>2 deponent would like the opportunity to review the</p> <p>3 transcript and recording pursuant to Federal Rule of</p> <p>4 Civil Procedure 30(e).</p> <p>5 MR. NOTZON: Agreed.</p> <p>6 MR. SCHMIDT: Also, just to clarify,</p> <p>7 we've also stipulated that we will be recording the</p> <p>8 video; and that we will not be making the announcements</p> <p>9 of the recording stopped in between the sessions, as</p> <p>10 required by 30(b)5, I believe; is --</p> <p>11 MS. HILTON: Agreed.</p> <p>12 MR. SCHMIDT: -- that correct?</p> <p>13 MS. HILTON: Agreed.</p> <p>14 AHED TEWFIK,</p> <p>15 having been duly sworn, testified as follows:</p> <p>16 EXAMINATION</p> <p>17 BY MR. NOTZON:</p> <p>18 Q. Good morning, Professor Tewfik.</p> <p>19 A. Good morning.</p> <p>20 Q. Could you state your position with the</p> <p>21 University of Texas currently?</p> <p>22 A. I am a Senior Professor at the University of</p> <p>23 Texas, and I hold an Endowed Chair.</p> <p>24 Q. And how long have you held that position?</p> <p>25 A. I have held that position since I joined in</p>	<p>8</p> <p>1 A. So I started in October 2010. My term was</p> <p>2 supposed to finish eight years later. So it's four</p> <p>3 years, and then it was renewed four years. Then I was</p> <p>4 extended a year because of a number of things that were</p> <p>5 happening, and then I was asked to serve a few more</p> <p>6 months because my successor couldn't assume the position</p> <p>7 on time. So I ended up serving as Chair from October</p> <p>8 2010 through November of 2019.</p> <p>9 Q. Okay. And you were replaced by Diana</p> <p>10 Marculescu?</p> <p>11 A. That's correct.</p> <p>12 Q. And was she already at UT, or did she come in</p> <p>13 from outside?</p> <p>14 A. No, so she came from outside. She came from</p> <p>15 Carnegie Mellon University.</p> <p>16 Q. Okay. And what were the things that were</p> <p>17 going on that caused you to be extended for a year?</p> <p>18 A. The things that were going on, there was an</p> <p>19 external review of the department; and the committee</p> <p>20 lauded our accomplishments, pointed out that the</p> <p>21 university didn't have a succession plan; and on top of</p> <p>22 this, we were in the process of moving to a new</p> <p>23 building. And so the combination of needing to bring</p> <p>24 the department together and the fact that we needed a</p> <p>25 little longer runway to get a successor is what had the</p>
<p>7</p> <p>1 October of 2010.</p> <p>2 Q. Where did you come from?</p> <p>3 A. I came from the University of Minnesota.</p> <p>4 Q. Okay. So you came as a full professor?</p> <p>5 A. I came as a full professor with an Endowed</p> <p>6 Chair, yes.</p> <p>7 Q. And how long have you been a faculty member at</p> <p>8 a university?</p> <p>9 A. I joined the University of Minnesota in the</p> <p>10 Fall of 1987, so you can do the math.</p> <p>11 Q. Okay. And that was as an Assistant Professor?</p> <p>12 A. As an Assistant Professor, correct.</p> <p>13 Q. I get 34 years with my math. Is that your</p> <p>14 math?</p> <p>15 A. I didn't do the math, but I can pull out my</p> <p>16 calculator if you want. I'm happy to.</p> <p>17 Q. That's okay. I didn't know if you were</p> <p>18 testing my math.</p> <p>19 Okay. And during your time at UT since</p> <p>20 2010, have you held any administrative positions other</p> <p>21 than the Chair of ECE?</p> <p>22 A. No, the only administrative position I held</p> <p>23 was Chair of ECE.</p> <p>24 Q. Okay. And how many years, or when you started</p> <p>25 and when you stopped, whichever is easier for you?</p>	<p>9</p> <p>1 Provost ask me whether I would agree to serve an</p> <p>2 additional year.</p> <p>3 Q. Okay. And this litigation was not one of the</p> <p>4 factors involved in that?</p> <p>5 A. Well, this extension happened before</p> <p>6 Professor Nikolova was going up for tenure and promotion</p> <p>7 so. Yes, it did not factor in because this was not</p> <p>8 anything that anybody could have guessed.</p> <p>9 Q. Okay. And when you got extended for another</p> <p>10 four years as a Chair, is that a common practice?</p> <p>11 A. No. There's a review process; and after the</p> <p>12 review process, then the Dean can decide to extend the</p> <p>13 person or not. So in my case there was a review</p> <p>14 process. There was a committee formed that gathered</p> <p>15 feedback from faculty, staff, and students. They</p> <p>16 submitted their recommendation to the Dean and Dean</p> <p>17 decided to extend me and I agreed to serve four more</p> <p>18 years.</p> <p>19 Q. Okay. And the Dean at that time was</p> <p>20 Dr. Fennes?</p> <p>21 A. No. The Dean at that time was Dean Wood. I</p> <p>22 don't recall whether this was the year that she was an</p> <p>23 interim Dean or whether she had already been appointed</p> <p>24 as permanent Dean.</p> <p>25 Q. Right. Okay. Because it would have occurred</p>

<p>10</p> <p>1 around the 2014 time period?</p> <p>2 A. Yeah.</p> <p>3 Q. Okay. So during your eight years as the Chair</p> <p>4 of the ECE, did you have a particular focus -- well,</p> <p>5 let's start with: Did you have an awareness that there</p> <p>6 was a dearth of female faculty in your department?</p> <p>7 MS. HILTON: Objection, form.</p> <p>8 A. Yes, when I came into the department, I did</p> <p>9 note that we had a very small number of female faculty</p> <p>10 members; and I actively worked on reversing that and</p> <p>11 also increasing the number of female students in the</p> <p>12 department.</p> <p>13 Q. (BY MR. NOTZON) Okay. And while you were at</p> <p>14 Minnesota, did you have more or less female faculty in</p> <p>15 the department?</p> <p>16 A. I honestly don't remember, but we didn't have</p> <p>17 that many faculty members. We may have had maybe one or</p> <p>18 two; but this was so long ago that I -- I mean, I don't</p> <p>19 know how to even check it because if I went to the</p> <p>20 website, the faculty in the department are different</p> <p>21 from the composition we had back then. But the numbers</p> <p>22 were small -- were extremely small back then, and had</p> <p>23 trouble recruiting female faculty members.</p> <p>24 Q. Would you say as was the case across the</p> <p>25 country?</p>	<p>12</p> <p>1 members, therefore, you're a top ten department. The</p> <p>2 reason I focused on that is because I fundamentally</p> <p>3 believe that having diversity in your staff, you know,</p> <p>4 on your team, leads to innovation. It leads to people</p> <p>5 being able to see around the corners. It leads to</p> <p>6 people recognizing issues that, you know, perhaps some</p> <p>7 fractions of the populations are experiencing. So it's</p> <p>8 a good thing to have. It's not just the right thing to</p> <p>9 do. It is a good thing to have if you want to enhance</p> <p>10 the reputation of the department.</p> <p>11 But, from that perspective, increasing</p> <p>12 the number of female faculty on staff meant that the</p> <p>13 overall output of the department, the quality of the</p> <p>14 innovation that was going to come from the department, I</p> <p>15 expected it to be higher; and that's what has transpired</p> <p>16 since then.</p> <p>17 Q. And is this a belief and attitude that you had</p> <p>18 coming in, or was this something that UT imparted to</p> <p>19 you?</p> <p>20 A. This was a belief that I had coming in. It</p> <p>21 may have factored in the selection process why they</p> <p>22 selected me as opposed to someone else, but UT has also</p> <p>23 been extremely supportive. So, for example, when I</p> <p>24 asked to have training for our faculty, UT obligated and</p> <p>25 provided me with the right people to do the training.</p>
<p>11</p> <p>1 MS. HILTON: Objection, form.</p> <p>2 A. As was the case across the country, yes. The</p> <p>3 number of -- the percentage of female Ph.D.s and</p> <p>4 graduates was low. So there is a lot of competition for</p> <p>5 getting the top female faculty candidates across all</p> <p>6 departments.</p> <p>7 Q. (BY MR. NOTZON) And did any -- were you</p> <p>8 tasked with increasing the female faculty as part of the</p> <p>9 recruitment and hiring process, or is this something you</p> <p>10 did on your own?</p> <p>11 A. I was tasked to take a high-rank department to</p> <p>12 the next level; and so there were a number of things</p> <p>13 that when I came in, I had to do. This was one of them,</p> <p>14 recognizing the composition of the faculty. And this</p> <p>15 was one of the tasks that I focused on, but there were a</p> <p>16 number of things. I mean, I wasn't given a</p> <p>17 prescriptive, do A, B, C, D. I was just given the task</p> <p>18 of increasing the reputation and effectiveness of the</p> <p>19 department.</p> <p>20 Q. Okay. And one of the factors in the</p> <p>21 reputation of the department would be the number of</p> <p>22 female faculty on staff that were qualified and quality?</p> <p>23 A. It's not a factor that -- you know, people are</p> <p>24 not going to look at how many female faculty members and</p> <p>25 says: Well, if you have a large number of faculty</p>	<p>13</p> <p>1 When I asked for extra positions for -- to increase the</p> <p>2 diversity on our faculty, I was given a position; and</p> <p>3 that's actually the position that Dr. Nikolova</p> <p>4 ultimately was recruited for. So UT did whatever it</p> <p>5 could. Whenever I asked for something, I got it when it</p> <p>6 had to do with increasing diversity.</p> <p>7 Q. What training did you ask for and get?</p> <p>8 A. The training that I asked for was to -- there</p> <p>9 were several training sessions that we did over the</p> <p>10 years. So, you know, one of the first sessions we --</p> <p>11 I -- there was a -- I think, a vice president -- you</p> <p>12 know, some -- someone in administration that was in</p> <p>13 charge of diversity and had the right training. So I</p> <p>14 worked with that person. We brought in that person and</p> <p>15 others on her staff and another person that she works</p> <p>16 with who's an expert in this who wasn't necessarily on</p> <p>17 our staff.</p> <p>18 We provided the faculty with training</p> <p>19 material that they had to do ahead of the training. We</p> <p>20 brought in the trainers in the -- in one of our faculty</p> <p>21 meetings, one of our Monday faculty meetings. There</p> <p>22 were discussions that the faculty had to engage in.</p> <p>23 We had observers that observed, you know,</p> <p>24 how people were reacting, who was saying what; and then</p> <p>25 there were subsequent interventions, such as taking</p>



<p>14</p> <p>1 people to small lunches and, you know, address some of 2 these issues to move people along. And that has 3 continued. 4       So I think the last training session we 5 had, you know, may have had been in the Fall of '19 or 6 the Spring of '19 -- I can't remember -- but, you know, 7 we continued to have training sessions along those 8 lines. There were training sessions that were 9 specifically aimed at faculty who were on our faculty 10 recruiting committees. So there are a number of 11 training sessions. 12       Q. So it included hiring -- recruiting and hiring 13 and retention issues, as well as interpersonal 14 interactions among the faculty and interactions between 15 faculty and students, et cetera? 16       A. Yes, it was all encompassing. 17       Q. Okay. And just to clarify, not in a single 18 training; but there were multiple trainings that covered 19 all the bases? 20       A. Correct, there were multiple trainings over a 21 number of years. 22       Q. And is there a documentation of those 23 trainings that were provided and when they were provided 24 during the time you were Chair? 25       A. I presume that if we search my e-mails, we</p>	<p>16</p> <p>1 a particular part of UT; or did you obtain trainers from 2 disparate areas? 3       A. I can't answer that question because I went to 4 a particular person, and that particular person then 5 drew the right experts from multiple parts of UT. And 6 as I mentioned, there was, at least in the first 7 training, one person that didn't seem to be at UT 8 because I remember that we were contacting her. I can't 9 remember. She might have been in Dallas or somewhere 10 else. So every training, I contacted a single person; 11 but I wasn't in charge of, you know, bringing the right 12 people to the table. They were in charge of doing this. 13       Q. Who was that single person? 14       A. I mean, in the -- in the last few years that 15 single person might have been the head of our Title IX 16 program. At the very beginning it was -- I don't 17 remember her exact title, but it might have been Vice 18 President for Diversity or Associate Vice President for 19 Diversity and Inclusion, you know, something along those 20 lines. I don't -- you know, those titles have changed 21 over time. 22       Q. Okay. So when you say you went to a single 23 person, you always went to a single person; but that 24 single person changed over time? 25       A. Yes, that single person changed over time</p>
<p>15</p> <p>1 will find the announcements, you know. You might find 2 the links to the material that was provided, you know. 3 So the answer is, yes; but someone would have to go in 4 and look for this information in the e-mails that 5 announced what was happening in a particular faculty 6 meeting or that was addressed to a particular recruiting 7 committee and asking them to take training. 8       In addition, at some point in time, the 9 rest -- and I can't remember whether it was the college 10 first or the university first -- where the training that 11 we were giving to recruiting faculty -- sorry -- 12 recruiting committees became mandatory across the whole 13 university. So if you looked at, also, the university, 14 I'm sure that somewhere on the Clovis site, you know, 15 you'll find the requirement and when it became 16 effective. 17       Q. Okay. And so you're saying you started doing 18 training on diversity and these issues prior to the 19 university making it mandatory that the hiring committee 20 be trained in that way? 21       A. That's correct. 22       Q. Okay. And all the training that you received, 23 would you -- and you may have said this, and I 24 apologize. So it may be replowing ground, but were 25 they -- all the trainers and the training provided from</p>	<p>17</p> <p>1 because the focus of the activity within the university 2 moved as -- you know, as upper administration reworked 3 certain functions. 4       Q. Were that -- were those single people, 5 persons, always from OIE? 6       A. So I'm sorry, but I don't know what the 7 acronym stands for. 8       Q. Office -- 9       A. Even if I -- okay. Go ahead. 10       Q. Office of Inclusion and Equity. 11       A. Well, so the first person I contacted the 12 first time we had the training, as I said, that person 13 had a title of something relative to diversity and 14 inclusion or maybe equity. What the exact title was, I 15 don't remember; but, subsequently, in following years, 16 you know, I may have gone to the same office and would 17 have been told: Well, why don't you work with the 18 Title IX -- you know, I would have to go back and look 19 at my notes. 20       Q. Okay. 21       A. Not my notes, my e-mails or something. I 22 didn't take notes on that. 23       Q. Right. Somewhere in your records? 24       A. Somewhere in the records, yes. 25       Q. Okay. And do you have a -- well, let me just</p>

<p>18</p> <p>1 ask: How many women were hired during the time that you 2 were Chair, women faculty; and how many remained at the 3 time that you ended your Chairship? 4 A. Okay. So when I came in, let me try to think 5 who was there. 6 Q. And if I didn't say it, I meant female 7 faculty. 8 A. I understand. 9 I believe, but I'd have to go back and 10 look at the exact roster, that when I came in, we had 11 four faculty members. And I would have to go through 12 the website to count them now; but my guess is that 13 today we have roughly double, if not more, that number 14 faculty members. During that process, during my tenure 15 one of the original four left; and of the ones that I 16 recruited, at this point, all of them seem to be on our 17 faculty. 18 Q. Okay. All the female faculty that have been 19 hired since you've been the Chair are still faculty at 20 UT? 21 A. I believe that that's correct. 22 Q. Okay. And I'm not trying to "gotcha" or 23 anything, but I think I know that some female faculty 24 members have left. Is it just the one that left that 25 had been here before you got here?</p>	<p>20</p> <p>1 vote level? 2 A. She withdrew it somewhere between the time 3 that the department was done with the case and before 4 the college got a chance to officially vote on the case. 5 Q. Right. And was she up early? 6 A. I honestly don't recall. I presume that she 7 may have been up early because if she wasn't up early, 8 we probably would not have been able to withdraw her 9 case. We would have been forced to go with the whole 10 process. 11 Q. Because it would be her one and only chance to 12 go up? 13 A. That's correct. So I'm making an assumption, 14 but it's probably correct. 15 Q. Is your assumption also that -- well, no. 16 I'll leave it. 17 Okay. Do you recall -- so I understand 18 there's a two-step process at the department level 19 where, in the academic year prior to submitting the 20 dossier for promotion, that there's a Budget Council 21 vote as to whether or not the faculty member should be 22 put up for promotion; is that correct? 23 A. That's correct. The Budget Council -- again, 24 that's sort of my understanding -- is the only body 25 within UT that can decide whether we can put someone</p>
<p>19</p> <p>1 A. That's my recollection. When I arrived -- 2 when I arrived, there were four female faculty members. 3 The only one that left was Professor Miryung Kim. 4 Q. Okay. 5 A. I don't recall any other female faculty member 6 leaving; and, you know, if my memory's failing me, 7 please correct me. 8 Q. No, I'm just asking. 9 Okay. So -- and Professor Kim, she was 10 an Assistant Professor, not tenured? 11 A. That's correct. 12 Q. And she went up for tenure, but received a 13 negative vote; is that right? 14 A. No, that's not correct. She went up for 15 tenure. The vote that she received was viewed as 16 potentially weak by the Dean, the then Dean, an 17 Associate Dean; and then they relayed the information to 18 us. And then we huddled back and discussed it and she 19 decided to withdraw the case. 20 Q. Okay. And the weak vote was at the Budget 21 Council level? 22 A. Yes, the weak vote was at the Budget Council 23 level. 24 Q. Okay. So Professor -- or Dr. Kim withdrew her 25 candidacy at that point, and it didn't go to the college</p>	<p>21</p> <p>1 forward for promotion or not, the exception being that 2 if that person is in their up-or-out year, then even if 3 the Budget Council votes not to put that person for 4 promotion, we will still go ahead and put that person 5 for promotion. 6 Q. Okay. And so the first vote for Dr. Kim, I 7 understand from prior testimony, or -- well, I 8 understand that the Budget Council vote was strong -- 9 strong in support of her candidacy for Step 1 before it 10 became a weak vote in support of her promotion at 11 Step 2. Is that your memory? 12 A. I have no recollection of the votes, what they 13 were. I have a recollection of, you know, what happened 14 in the second vote and the result of what happened, I 15 mean, the result of the weak vote; but I have absolutely 16 no recollection of the first vote. And I would have to 17 go back and try to find the exact vote and the record 18 that we have of that vote to be able to answer your 19 question. 20 Q. Okay. And did you ever advise her one way or 21 the other as to whether or not she should go forward 22 prior to the Step 1, I guess? 23 A. I was a strong supporter of Dr. Kim and we 24 stayed in touch after she left and then she kept -- you 25 know, she kept me abreast of all her developments. So I</p>

<p>22</p> <p>1 was a great fan of her and of her work and I don't 2 recall exactly what I may or may not have said given; 3 but given that I was a great fan of her -- of hers, I 4 presume that I did encourage her to go forward when she 5 did. 6 Q. Would it be accurate to say that no matter how 7 much of a fan you are of a faculty member, you would not 8 advise them to go up if you felt that their chances were 9 weak? 10 A. When we're going up for true early cases -- 11 true early cases are when you go up for tenure and you 12 count the number of years that you have served in rank 13 at any institution, it's lower than what the expectation 14 is. Then, you know, if we're doing something like that, 15 then at that point, I am not a risk taker. I mean, we 16 take educated risks. So I would make sure that the case 17 that would go up would be an extremely strong case and 18 that no one would be able to poke a hole into this 19 particular case. 20 Q. Because, as you understand it, if a case is 21 early, true early, like you said, that it is put to a 22 higher bar than someone who is not true early? 23 A. Different people have different perspectives 24 on the bar issue. I am one who, my perspective on this, 25 which may not be the perspective of the rest of my</p>	<p>24</p> <p>1 Q. Okay. Because we are talking about UT? 2 A. Yeah. 3 Q. Okay. And you've actually seen that -- what 4 you just explained about true early and meeting the 5 six-year requirement, you've seen that put in play over 6 the years that you were the Chair since 2010, correct? 7 A. Correct. 8 Q. Have you -- have you seen anyone other than 9 Dr. Nikolova be placed at the higher bar, even though 10 she wasn't true early? 11 MS. HILTON: Objection, form. 12 A. I don't believe that Professor Nikolova was 13 put at a higher bar than others in this particular case. 14 Q. (BY MR. NOTZON) So you believe she was 15 assessed in her tenure process at the same tenure 16 promotion qualification bar as someone that had done all 17 six years at UT? 18 A. That's my belief. Others may disagree; but 19 that's my belief based on all the documents that I've 20 seen from her case and based on the discussions with 21 some people, you know, the people that I had a chance to 22 talk to. 23 Q. Okay. And who are those people? 24 A. Those people would be my colleagues and would 25 be the Dean.</p>
<p>23</p> <p>1 colleagues, may not be the perspective of the Dean, you 2 know, or anyone above the department that is involved in 3 that decision, my own perspective is that the bar is the 4 bar, that the bar doesn't change. 5 However, I think there is near unanimous 6 consent or agreement -- not consent -- agreement that if 7 someone is put up for promotion early, true early, then, 8 this is like giving that person an award; and you don't 9 get an award for just meeting the bar. So you get an 10 award for far exceeding the bar, the same way that you 11 get an award, you know, a professional award because you 12 far exceed expectations. So that's the way we have 13 looked at it; and at least that part, no one disagrees 14 on that aspect of early promotion. 15 Q. Okay. And just to be clear, the expected time 16 period that you referenced before -- you didn't put a 17 number on it -- but I believe that's six years, correct? 18 A. For UT it's six years. At different 19 universities it's different numbers. 20 Q. Okay. And -- but when you were talking about 21 that and you were talking about the expected time period 22 at UT and the prior institutions, the number that you 23 know to exist is six years? 24 A. Right, that's the number that we use within 25 UT; and that's the number I was referring to.</p>	<p>25</p> <p>1 Q. Okay. And the Dean -- other people in the 2 Dean's Office? 3 A. Other people in the Dean's Office aren't 4 involved in the decision, so I wouldn't -- I mean, they 5 wouldn't opine on this and I wouldn't seek their views 6 on what was and, you know, what their impressions were. 7 Q. They wouldn't opine, or you wouldn't give it 8 much credence? 9 A. No, they wouldn't opine because this is not 10 their job. They're not involved in it. So, no, the 11 promotion process is very well documented. The case 12 after the department goes to the college. In the 13 college there is a committee that looks at it. It's 14 made up of professors drawn from all the departments in 15 the college. They are the ones who make the initial 16 decision -- or recommendation, not decision. That 17 committee is sworn to secrecy. So I have no clue, no 18 inkling what went into their discussions. 19 And then the next step is the Dean, and 20 the Dean is someone I spoke with about this case. And 21 my assessment from the discussions with her is that she 22 really used -- you know, regardless of what she wrote in 23 her letter, that, in fact, she was applying the same 24 standard that she would have applied otherwise. 25 The committee that goes after that, the</p>

<p style="text-align: right;">26</p> <p>1 Presidential Committee, in this particular case I had no  2 particular interaction with that committee. There are  3 cases where I may be called to speak with that committee  4 and then I have a sense of where they stand, but in this  5 case I didn't. And so I have no clue what transpired in  6 their deliberations or what they were thinking.  7 Q. Okay. Whether you talked to the P&amp;T Committee  8 at the college level or not, you know what their vote  9 was, correct?  10 A. I know what their vote was, but I also know  11 that --  12 Q. I'm just asking one question at a time.  13 A. Okay.  14 Q. Okay? Because I'm going to follow up. All  15 right?  16 So you know what their vote was you said?  17 Yes, right?  18 A. Right.  19 Q. Okay. And you also know what the P&amp;T  20 Committee's vote was on prior candidates that have gone  21 up from your department, correct?  22 A. Correct, but that's meaningless because the  23 committee differs from year to year.  24 Q. Okay. You still have expectations, don't you?  25 MS. HILTON: Objection, form.</p>	<p style="text-align: right;">28</p> <p>1 A. The President's Committee stays with the same  2 composition, normally, for a number of years because  3 it's made of the President, the Provost, the Vice  4 President of Research, the Dean of undergraduate school,  5 and the Dean of the graduate school; and these positions  6 don't change from year to year. They will change over  7 time, but they're not going to change from year to year.  8 Q. Okay. And the P&amp;T Committee changes every  9 year?  10 A. The P&amp;T Committee changes. I don't know  11 exactly how it changes. I haven't kept track of that.  12 Normally, people from our department serving on it  13 would serve for two years, so I would presume that  14 maybe roughly half of it would change from year to year.  15 Q. Okay. And so there is at least some  16 portion -- you're estimating half -- that remain from  17 the prior committees, so that there's a running,  18 historical reference that would exist in the committee?  19 A. Half of the committee will remain on the  20 committee; but as I'm sure you're aware of, once you  21 have a new committee, even if half of it remains from  22 the previous year, there's a new dynamic. And depending  23 on who you're getting on the committee, how vocal they  24 are, et cetera, things change.  25 Q. And, also, things -- institutional memory on</p>
<p style="text-align: right;">27</p> <p>1 A. In what sense? I mean, can you clarify what  2 you mean by this?  3 Q. (BY MR. NOTZON) Sure. I believe you said you  4 make educated guesses. You don't take all-out risks.  5 You make educated guesses based upon the prior  6 performance of the candidates that you've sent through,  7 correct?  8 A. I make these educated guesses. I don't  9 optimize these guesses on what I expect that particular  10 committee to do, vote, or say, or what they actually may  11 put in the first draft of the Dean's letter. I optimize  12 on my understanding of what the Presidential Committee  13 will or will not do.  14 Q. Because that doesn't change?  15 A. Because that committee is the committee that  16 ultimately makes the decision. If we all said "no," the  17 Presidential Committee could say, "Yes, promote." And  18 if we all say, "Yes," the Presidential Committee could  19 still say, "No." They are the ultimate decision makers.  20 Q. Could you answer my question, though?  21 A. I thought that I answered your question. So  22 if I didn't, then I misunderstood your question. So if  23 you can clarify, that would be great.  24 Q. Yes, sir. The question is: Does the  25 President's Committee change?</p>	<p style="text-align: right;">29</p> <p>1 those people that stay would be there to assist the  2 committee in their deliberations?  3 MS. HILTON: Objection, form.  4 A. Committees are made of human beings. Human  5 beings react differently to different human beings. So  6 even if in principal what you're saying might be the  7 goal for keeping half of the committee unchanged,  8 there's no guarantee that this would happen.  9 Q. (BY MR. NOTZON) Right. But it does exist in  10 the committee, correct?  11 MS. HILTON: Objection, form.  12 A. The only thing that exists in the committee  13 that I can, you know, take into account is the fact that  14 half of the committee hasn't changed. Anything beyond  15 that would be speculation on my part and, you know, I'm  16 not in that business.  17 Q. (BY MR. NOTZON) I don't mean to quibble with  18 you about it too much; but if half remained -- if your  19 estimate's correct, some portion, half -- you don't have  20 to guess that they have an institutional memory that  21 they retained, do you?  22 MS. HILTON: Objection. Objection, form.  23 A. What do you mean by "institutional memory"?  24 Q. (BY MR. NOTZON) Their own memory of what  25 happened in their prior existence.</p>

<p style="text-align: right;">30</p> <p>1 A. They have their own memory, but then there is  2 the other half of the committee. The cases are not  3 identical. Each case is different. The dynamic within  4 the committee is going to be different. This has  5 nothing to do with the Promotion and Tenure Committee.  6 Any committee that you may have served on behaves that  7 way. I've seen it in all sorts of committees. I've  8 seen it within the P&amp;T. We are human beings. The fact  9 that you remember what you did last year doesn't mean  10 that -- you know, that the committee will necessarily  11 anchor on what you did last year.  12 MR. NOTZON: Objection, nonresponsive.  13 Q. (BY MR. NOTZON) I'll leave it, but -- because  14 I didn't ask all that. But that's all right. If you  15 don't want to answer my question, then I'll move on.  16 Did Professor Kim, before she left -- I  17 mean, Dr. Kim, before she left, did she communicate to  18 you that she had any complaints in the way she was  19 treated by anyone on the faculty at UT?  20 A. Yes, she did.  21 Q. And which faculty member did she complain  22 about?  23 A. Professor Yale Patt.  24 Q. And did that complaint involve her gender at  25 all?</p>	<p style="text-align: right;">32</p> <p>1 A. I don't remember. I'd have to go back to  2 the -- you know, the feedback that you collect with the  3 votes.  4 Q. And did professor -- did Dr. Kim complain  5 directly to you, or did you just learn of her complaint?  6 A. No, she complained directly to me; and I had  7 sort of the same view of the state of affairs as she  8 did.  9 Q. That Professor Patt was engaging in some sort  10 of misconduct?  11 A. That Professor Patt was, yeah, engaged in  12 inappropriate conduct; and I asked Professor Patt to  13 stop communicating with Professor Kim.  14 Q. And that was the end of it?  15 A. That was the end of it, yes.  16 Q. So neither you nor Dr. Kim reported Dr. Kim's  17 complaint about Professor Patt to any --  18 A. No, that was reported to the Dean.  19 Q. Okay.  20 A. So it went up the chain. So everybody was  21 aware of this, and Professor Patt was disciplined  22 several times during that time period.  23 Q. Okay. Was there an investigation conducted?  24 A. There were investigations that were conducted,  25 yes, at different times with Professor Patt during that</p>
<p style="text-align: right;">31</p> <p>1 A. Yes. Professor Yale Patt had a long history  2 of what I would call gender-related complaints.  3 Q. Gender/sexual?  4 A. I am not aware of the sexual part, but I'm  5 aware of the gender ones.  6 Q. Okay. So treating women differently than men?  7 A. Correct, treating women differently than men  8 and beyond that.  9 Q. What's the "beyond that" part?  10 A. The "beyond that" part is making comments that  11 are inappropriate, you know, things of that nature.  12 Q. Okay. Sexual comments?  13 A. Again, I'm not aware -- and maybe at some  14 point something came to my attention that I don't  15 remember right now; but the ones that I remember were  16 demeaning comments that he made, not of a sexual nature.  17 Q. Okay. And Dr. Kim's complaint about  18 Professor Patt, were they just comment related; or was  19 it something more?  20 A. They were related to the way he behaved with  21 her after the vote, and I presume that -- and this is  22 just an assumption -- that someone may have relayed to  23 her potential comments that he might have made during  24 the deliberations.  25 Q. Can you be more specific other than that?</p>	<p style="text-align: right;">33</p> <p>1 timeframe.  2 Q. All right. And Dr. Kim left after she  3 withdrew her candidacy; is that correct?  4 A. That's correct.  5 Q. How long after she withdrew the candidacy did  6 she leave?  7 A. I'd have to go back and look at that exactly  8 what happened when. My best recollection -- and my  9 recollection may be incorrect -- was that she would have  10 left the year after. So instead of going up for  11 promotion the year after, she then went to UCLA.  12 Q. Okay. So she finished out that academic year?  13 A. That's correct.  14 Q. Okay. Because she would have withdrawn her  15 candidacy in the fall semester, correct?  16 A. That's correct.  17 Q. And have you kept up with Dr. Kim? I think --  18 I thought you said -- did she make tenure at UCLA?  19 A. Yes, she made tenure at UCLA. And for -- I  20 mean, in the last few years I haven't been in touch with  21 her; but for a number of years, she kept me abreast of  22 her accomplishments, et cetera, so we were in touch.  23 Q. Okay. Who was the first faculty -- female  24 faculty member that you hired as Chair?  25 A. That I hired as Chair? What do you mean by</p>

<p>34</p> <p>1 that?</p> <p>2 Q. After you became Chair, who was the first</p> <p>3 female faculty member that was hired by the University</p> <p>4 of Texas in your department as a subordinate to you?</p> <p>5 A. As a subordinate, well, all the faculty</p> <p>6 members that were hired were reporting to me. So if</p> <p>7 that's what you mean by "subordinate," then they were</p> <p>8 subordinate to me.</p> <p>9 Q. You didn't hear my question. Let me try it</p> <p>10 again. After you became Chair, who was the first female</p> <p>11 faculty member that was hired by the University of Texas</p> <p>12 to work in your department, ECE, as your subordinate?</p> <p>13 A. I'm not getting what you mean by</p> <p>14 "subordinate." Do you mean somebody on the management</p> <p>15 side of the department, or do you mean a faculty member?</p> <p>16 Q. A faculty member, Assistant Professor or</p> <p>17 higher.</p> <p>18 A. There are a number of female faculty members</p> <p>19 that were hired. I don't know -- I mean,</p> <p>20 Professor Nikolova may have been the first one. Again,</p> <p>21 I'd have to go back and look.</p> <p>22 Q. Okay. You don't know?</p> <p>23 A. I don't remember. Not, I don't know; I don't</p> <p>24 remember.</p> <p>25 Q. If that's your answer, that's fine. Okay? I</p>	<p>36</p> <p>1 A. There was another Kim.</p> <p>2 Q. Oh.</p> <p>3 A. You know, there are many Smiths and many --</p> <p>4 you know, I don't know -- you know, many people that</p> <p>5 have your last name. There are many people who have the</p> <p>6 last name Kim as well.</p> <p>7 Q. Right. I understand. So there's a new</p> <p>8 Professor Kim, female Professor Kim?</p> <p>9 A. There is a new female faculty member, Kim; and</p> <p>10 there may be others. I mean, I -- you know, it's been a</p> <p>11 while since -- I am not in department. I'm on leave, so</p> <p>12 it's not like I see them every day. I mean, I've been</p> <p>13 away for a while. So I don't -- I really would have to</p> <p>14 go back to the website to count.</p> <p>15 Q. Okay. So I didn't realize you were on leave.</p> <p>16 So when did you go on leave?</p> <p>17 A. Normally, when you finish an administrative</p> <p>18 stent, you are allowed to take a sabbatical; and that is</p> <p>19 what I am on. I'm on leave at this point.</p> <p>20 Q. Okay. And when did you start that leave?</p> <p>21 A. I started that leave on December 1st --</p> <p>22 officially on December 1st, when my successor took over.</p> <p>23 Q. Okay. And how long is your sabbatical going</p> <p>24 to last?</p> <p>25 A. My sabbatical will last through the end of</p>
<p>35</p> <p>1 just want to make sure you understand. I'm looking for</p> <p>2 the first one, and you don't remember. Okay.</p> <p>3 Go ahead and name the female faculty</p> <p>4 members that were hired to work in your department after</p> <p>5 you became Chair, whether you remember the order.</p> <p>6 A. In order for me to do this, you'll have to</p> <p>7 allow me to go on our website and look at the list; and</p> <p>8 I'll tell you who they are. I mean, I probably won't</p> <p>9 have an exhaustive list. I don't quite remember who</p> <p>10 everybody, and I will miss a lot if you're asking me to</p> <p>11 list them. And I absolutely don't remember the order in</p> <p>12 which they were hired.</p> <p>13 Q. I thought you said there was only about four</p> <p>14 or five of them hired?</p> <p>15 A. Yes, there may be more. I mean, I have to go</p> <p>16 back and look at the website to ascertain just how many</p> <p>17 were hired.</p> <p>18 Q. Just give me your memory right now.</p> <p>19 A. So Nikolova was one. Hao Zhu was another.</p> <p>20 Jean Anne Incorvia was a third. Diana Marculescu was a</p> <p>21 fourth. And I'm probably missing one or two. So I</p> <p>22 really have to go back to the website to -- well, Kim</p> <p>23 was Number 5.</p> <p>24 Q. I thought you said she was here before you got</p> <p>25 here?</p>	<p>37</p> <p>1 this year.</p> <p>2 Q. Okay. So a year and a half of academic years?</p> <p>3 A. It's -- it will be more like two years by the</p> <p>4 time I'm done.</p> <p>5 Q. Okay. Because we just passed one year, right,</p> <p>6 in December?</p> <p>7 A. That's correct.</p> <p>8 Q. And then at the end of this year -- so you</p> <p>9 will start teaching in the Fall of '21?</p> <p>10 A. No, I'll start teaching in the Spring of '22.</p> <p>11 Q. Okay. And you went through the names that you</p> <p>12 remembered very quickly. I wasn't able to catch them --</p> <p>13 I don't know if the court reporter was -- but could you</p> <p>14 go through that list again for Hao Zhu, Marculescu...</p> <p>15 A. Hao Zhu, Diana Marculescu, Evdokia Nikolova,</p> <p>16 Kim -- I don't remember her first name -- Jean Incorvia;</p> <p>17 and I'm probably missing one --</p> <p>18 Q. Okay.</p> <p>19 A. -- maybe more.</p> <p>20 Q. Okay.</p> <p>21 A. Oh, Thomaz.</p> <p>22 Q. Andrea?</p> <p>23 A. Andrea Thomaz. I mean, I'd have to -- I mean,</p> <p>24 if you give me -- I mean, either you allow me to go to</p> <p>25 the website and I'll give you the exact number or I'll</p>



<p style="text-align: right;">38</p> <p>1 have to take ten minutes and try to run through each  2 area in the department because I basically -- oh, there  3 was another one more in electromagnetics. I'm sorry. I  4 mean, I have problems at this point with names. I can  5 see her face, but my -- my -- her name escapes me. So  6 there are at least seven that I hired.  7 Q. We can -- when we take the next break, or the  8 first break, you're free to do that; and that's fine.  9 And then we can get that list from you.  10 A. Okay.  11 Q. I'm not trying to deny you. I just, you know,  12 don't want to break unnecessarily. Okay?  13 A. Yeah, that's fine.  14 Q. Okay. And the court reporter would love it if  15 you wrote the names in the chat so that she'd have the  16 spellings?  17 A. Okay.  18 Q. And you can do that before we go back on.  19 It's up to you.  20 A. Okay.  21 Q. Now, were you involved in the hiring of all of  22 those people that you've listed so far?  23 A. Yes.  24 Q. Okay. So I'm going to shift slightly to,  25 instead of hiring of females, to the females that have</p>	<p style="text-align: right;">40</p> <p>1 process.  2 Q. Okay.  3 A. Very likely. Okay? I mean, again, I'd have  4 to go back and at least look at, you know, who's on the  5 website to remember.  6 Q. Please do.  7 A. Yeah.  8 Q. Please do. And, of course, that's -- Kim did  9 go up, but not all the way through?  10 A. Technically, Kim did not go up because she  11 withdrew her case; and it didn't go through the college.  12 Q. Okay. Was there anybody else that, like Kim,  13 Miryung Kim, started the process but withdrew?  14 A. I'm sure there are others in other  15 departments, but I don't remember in our own department  16 whether -- I honestly don't remember. And, again,  17 that's not -- that's not something that I would remember  18 by looking at a website. I mean, I would have to look  19 back in more details in other things.  20 Q. And just to clarify, I was just asking about  21 your department while you were the Chair.  22 A. Yeah, as I just said, I mean, I don't  23 remember; and it would take me more than just looking at  24 a website to remember that.  25 Q. Okay. You don't think you would remember a</p>
<p style="text-align: right;">39</p> <p>1 gone up for tenure since you've been Chair.  2 A. Okay.  3 Q. Can you give me the list of those that you  4 remember; and if you don't remember anymore, that's  5 fine. But it's up to you how you --  6 A. I actually would have to go back again and  7 look at the roster. So, obviously, I remember  8 Professor Nikolova; but a lot of people went up for  9 promotion during my time. And so I would have to look  10 at the specific list of faculty members that -- first of  11 all, are you asking from assistant to associate or  12 associate to full?  13 Q. Just assistant to associate, yeah, just  14 because I don't want to get into something that I don't  15 think is necessarily relevant to our case.  16 A. Then highly likely -- and, again, I'll have to  17 go back and look -- that the only case was  18 Professor Nikolova.  19 Q. What about -- oh, okay. The --  20 Professor Heidari, she wasn't in your department?  21 A. Yes, Professor Heidari is not in my  22 department.  23 Q. Okay. So just Dr. Nikolova went up, while you  24 were the Chair, from assistant to associate?  25 A. Right, she's the only one who completed the</p>	<p style="text-align: right;">41</p> <p>1 female faculty member, while you were Chair, that went  2 up for tenure but withdrew, like Kim?  3 A. That's not the question that I heard from you.  4 I mean, I heard the question: Did anybody go up for  5 promotion and withdraw their case? You didn't say  6 "female." If you specifically are asking about female,  7 then, yes, Professor Kim was the only female faculty  8 member that went from assistant to associate and  9 withdrew her case.  10 Q. Thank you for the clarification, and I  11 apologize if my question was not well tailored.  12 MR. NOTZON: Let's -- let's go ahead and  13 take a break. It's almost an hour that we've been going  14 and you're free to look at the website and, of course,  15 you know, make sure you're comfortable and just come  16 back when you're ready.  17 THE WITNESS: Okay.  18 THE REPORTER: We're going off the record  19 at 10:57 a.m.  20 (Off the record from 10:57 to 11:15 a.m.)  21 THE REPORTER: We're back on the record  22 at 11:15 a.m.  23 Q (BY MR. NOTZON) Okay. Back from the break.  24 And, Professor Tewfik, I see that you put up seven names  25 in the chat. Is that the -- are those names accurate</p>



<p style="text-align: right;">42</p> <p>1 for the female faculty that were hired by ECE while you 2 were the Chair? 3 A. Yeah, that's the best that I could do during 4 the break. 5 Q. Okay. Thank you for doing that. 6 Could you just go ahead and read the 7 list -- or I'll read it; and then you can confirm that 8 I've read it correctly, although, the pronunciations 9 might not be accurate. Jean Anne Incorvia, Hyeji Kim, 10 Diana Marculescu, Evdokia Nikolova, Emily Porter, Andrea 11 Thomaz, and Hao Zhu? 12 A. That's correct. 13 Q. Okay. And it looks like those are in 14 alphabetical order; is that correct? 15 A. Yes, it looks like they are in alphabetical 16 order. 17 Q. Okay. They're not meant to have been put in 18 temporal order, correct? 19 A. That's correct. 20 Q. Okay. Did you determine when they were hired 21 when you looked, or did you not? 22 A. No, I didn't and I don't recall that 23 information and I couldn't have done that by just 24 looking at the website. 25 Q. No problem. I believe I have a chart that</p>	<p style="text-align: right;">44</p> <p>1 A. I don't know what you're talking about. Who's 2 that Kim? Where are you getting this name? Where did 3 you get your information? 4 Q. Oh, I see. It's not an ECE Kim. It's a 5 different department. So never mind. 6 All right. Moving on, Thomaz, 2016, does 7 that sound accurate? 8 A. I mean, given that you got the first one so 9 wrong, I can't confirm any of your numbers, basically, 10 so. 11 Q. I got Nikolova correct, so you should at least 12 give me credit for that. 13 A. Actually, I -- you know, again, without me 14 looking back at her dossier, I wouldn't even give you 15 credit for that. I would have to confirm. 16 Q. Okay. So if I said '17 for Hao Zhu, '18 for 17 Incorvia, and '19 for Porter, you'd have the same 18 answer? 19 A. Yeah. You know, I wouldn't be able to confirm 20 any of your numbers. 21 Q. Okay. Did any of those women that were hired 22 besides Dr. Nikolova, of course, have prior teaching 23 experience at other universities as assistant professors 24 before they started at UT? 25 A. Sorry. I mean, this is a Zoom thing. I lost</p>
<p style="text-align: right;">43</p> <p>1 shows when they were hired. Let me read the years that 2 they started. I won't identify whether it was January 3 or, you know, the Spring Semester or the Fall Semester, 4 but just give the year and see if that rings a bell for 5 you. Okay? 6 A. Okay. 7 Q. Nikolova and Kim in '14, and this is the right 8 Kim, the second Kim. 9 A. The second Kim could not have been hired in 10 '14. 11 Q. Oh, okay. When do you think it was? 12 A. Much later, because, as I was transitioning or 13 handing off the reins of the department to my successor, 14 we were having problems with her visa. So she couldn't 15 have been hired in '14. 16 Q. Okay. So it was more -- more recently? 17 A. Yeah, probably '18 or '19. Probably '18 and 18 that she couldn't have -- I mean, she didn't join -- for 19 sure, in the Spring of '19, I was dealing with her visa 20 issues. She was -- I think she -- my vague recollection 21 is that she was supposed to start in '19 due to visa, 22 and then it slipped. 23 Q. Okay. Let's see. I see a Kim listed. Maybe 24 it's a different spelling. H-Y-U-N, next word, J-U-N-G. 25 Is that a third Kim?</p>	<p style="text-align: right;">45</p> <p>1 you. 2 Q. Oh. 3 A. What I got is, "Did any." And then I didn't 4 hear the rest of it. 5 Q. Okay. I'll restate it. 6 A. Okay. Thank you. 7 Q. Yeah, yeah, anytime, please; and I will do the 8 same, of course. We have to work with technology, not 9 in spite of it. 10 So the question is: Did any of the six 11 women that were hired to the faculty while you were the 12 Chair in ECE, other than Dr. Nikolova, did they have 13 prior teaching experience as assistant professors at 14 other universities? 15 A. So several of them came in with teaching 16 experience, and some may have. I would have to confirm. 17 So Andrea Thomaz was an associate professor at Georgia 18 Tech. Hao Zhu was an assistant professor at Illinois. 19 Yeah, Marculescu was a professor at TMU. Emily Porter 20 may have had teaching experience. I can't quite 21 remember because she had a special position where she 22 was. To the best of my recollection, Jean Anne and 23 Hyeji Kim didn't have prior experience. They may have 24 taught a course while post-doc'ing somewhere, but I 25 don't remember that. You know, this was not a factor --</p>

<p style="text-align: right;">46</p> <p>1 or, you know, it didn't stick in my mind that they had 2 prior experience.</p> <p>3 Q. Okay. And it could be my hearing. Did you 4 say that Thomaz had associate professor?</p> <p>5 A. Yes, Thomaz was an associate professor. She 6 may have been an assistant, promoted to associate, a 7 fresh associate. Anyway, she came -- you know, the year 8 she was hired, she was hired the same year as Dan 9 Wasserman -- that's my recollection or about, you know, 10 maybe plus or minus one year -- and one of them or both 11 of them were going through promotion at their 12 institution; and then we matched that promotion. So, 13 you know, she may have been an assistant and then an 14 associate at UT; or she may have been an associate and 15 an associate at UT.</p> <p>16 Q. Okay. And so just to clarify, professor 17 Thomaz was hired as tenured; she didn't have to go 18 through the tenure process at UT?</p> <p>19 A. That's correct.</p> <p>20 Q. Okay.</p> <p>21 A. But that meant that -- sorry; maybe I -- the 22 process for hiring her was as rigorous as the process 23 that we normally do for promotion.</p> <p>24 Q. Okay. So the Department, the Budget Council 25 had to vote on her. The Tenure &amp; Promotion Committee</p>	<p style="text-align: right;">48</p> <p>1 A. -- because this was an unusual situation; but 2 she could have, and likely may have, like many other 3 faculty members -- or the four faculty members that we 4 had in the Department, like other students have 5 complained about him. And this is what triggered, as I 6 mentioned earlier, investigations and disciplinary 7 action.</p> <p>8 Q. Okay. And those investigations occurred after 9 the vote?</p> <p>10 A. Some investigations actually occurred before 11 the vote, and others occurred after the vote.</p> <p>12 Q. Okay.</p> <p>13 A. He had a long history of investigations and 14 disciplinary actions.</p> <p>15 Q. I'm trying to understand where the "after the 16 vote" comes in. Does that "after the vote" come in as 17 the point at which she came to you and conveyed to you 18 what her complaint was?</p> <p>19 A. She -- again, as I said, she may have 20 complained in the past about other things that may have 21 happened. I don't recall those because there are so 22 many complaints that we got about him. The only thing 23 that I recall vividly is the complaint after the vote.</p> <p>24 Q. Okay. Her complaint to you?</p> <p>25 A. Her complaint to me after the vote, because --</p>
<p style="text-align: right;">47</p> <p>1 had to hire; the Dean had to write a letter, et cetera?</p> <p>2 A. Yes, and we had to have more reference letters 3 and -- so yes. Yes to your -- your question.</p> <p>4 Q. Okay. All right. I wanted to go back to 5 Dr. Miryung Kim for a short bit. You had said that she 6 had complained about comments that had been made and 7 other things that Professor Patt had done, and I wanted 8 to go over: Was there any other complaints she had 9 besides against Professor Patt?</p> <p>10 A. Okay. The only thing that I said specifically 11 is that she complained about interactions after the 12 vote; and that's the only thing that, because I reacted 13 to it, that sticks in my mind. She may have had 14 complaints before that. A lot of faculty members have 15 had complaints about Professor Patt, as well as 16 students; but I don't -- you know, I don't remember when 17 and how.</p> <p>18 Q. Okay. So sitting here today, your memory is 19 that Dr. Kim was only complaining about Professor Patt 20 after her vote?</p> <p>21 A. That's not what I said.</p> <p>22 Q. Oh.</p> <p>23 A. What I said is what stuck in my mind is the 24 complaint that happened after the vote --</p> <p>25 Q. Oh.</p>	<p style="text-align: right;">49</p> <p>1 Q. Okay.</p> <p>2 A. Okay? Because that's what stuck in my mind.</p> <p>3 Q. Okay. I'm sorry for being dense. It's just 4 I'm trying to make sure I understand.</p> <p>5 So you recall what her complaints were to 6 you -- what her complaints -- what the comments were 7 that she was complaining about?</p> <p>8 A. No, I don't recall what the comments were. I 9 recall that she complained, and I recall that I asked 10 Yale Patt to stop communicating with her.</p> <p>11 Q. And other than the comments from Doctor -- 12 Professor Patt that she had conveyed to you, did she 13 convey any other complaint about anything to you at that 14 time?</p> <p>15 A. Again, this is the complaint that I remember. 16 I don't remember her complaining about something else, 17 so.</p> <p>18 Q. Okay. And are you aware of who Dr. Kim 19 complained to other than you?</p> <p>20 A. No, I'm not.</p> <p>21 Q. Are you aware if she made a complaint outside 22 of the department to the -- again, OIE or HR or some 23 other entity?</p> <p>24 A. I just answered that I'm not aware of any 25 interactions she's had outside of the department.</p>

<p>50</p> <p>1 Q. Okay. Did you have any discussions with any 2 of the members of the faculty about Dr. Kim's complaints 3 of the ECE?</p> <p>4 A. The way I addressed this was through the 5 training that I asked all the faculty members to take.</p> <p>6 Q. You responded to her complaint by asking that 7 additional training be taken?</p> <p>8 A. That's correct. I asked that everybody 9 partake in the training.</p> <p>10 Q. Male and female?</p> <p>11 A. Male and female.</p> <p>12 Q. Okay. And who provided that training, if you 13 can recall?</p> <p>14 A. I think I answered this question before the 15 break.</p> <p>16 Q. I just didn't know if your memory was 17 refreshed by this discussion.</p> <p>18 A. My memory wasn't refreshed by this discussion.</p> <p>19 Q. Okay. So, again, I didn't know if I got an 20 answer to this question. Did you have any discussions 21 with any members of the faculty about Dr. Kim's 22 complaint?</p> <p>23 A. Again, I answered this question by telling you 24 that the way I addressed this was by bringing the 25 training in.</p>	<p>52</p> <p>1 wanted to ask you if you felt that she was qualified to 2 receive tenure based on the normal bar of the six-year 3 bar that she qualified for using both her A&amp;M and UT 4 years of teaching?</p> <p>5 A. You're asking about my personal assessment?</p> <p>6 Q. Personal/professional, yes.</p> <p>7 A. My personal/professional assessment was that 8 she was somewhere close to the bar. She might have been 9 slightly under the bar or slightly above the bar. She 10 might have just passed the bar.</p> <p>11 On the other hand, my own personal 12 assessment was that she had done excellent work when we 13 were recruiting her; that, you know, her first few 14 semesters that she taught [sic] that she was doing 15 fine; and that, if given more time, she was going to 16 shine again. And, therefore, I was willing to take a 17 risk and support her case.</p> <p>18 Q. Okay. And so you don't feel strongly that she 19 was qualified for tenure, but enough to push forward?</p> <p>20 MS. HILTON: Objection, form.</p> <p>21 A. My assessment was probably no different than 22 the assessment of my colleagues or many of my colleagues 23 and the Dean, which is that she's somewhere close to the 24 bar. Okay. So she may have been slightly under for 25 some people, slightly above the bar for others; but my</p>
<p>51</p> <p>1 Q. See, that doesn't answer the question for me. 2 My question is: Did you discuss with specific members 3 of the faculty or groups of the faculty Dr. Kim's 4 complaint? And that's --</p> <p>5 A. I don't -- I don't recall that I discussed 6 this. I may or may not have. You know, we don't engage 7 in idle chitchat about these topics. If there's a 8 problem, you address the problem; and you address it the 9 most effective way.</p> <p>10 Q. So it would be accurate, I think, from your 11 testimony, that the entire faculty knew that Dr. Kim had 12 made a complaint, at least one?</p> <p>13 A. I did not say that. The only person who knew 14 that there was a complaint was Professor Patt because 15 Professor Patt was told explicitly not to communicate 16 again with Professor Kim or actually any other female 17 member on our faculty.</p> <p>18 Q. Okay. Well, let me ask it a different way. 19 Did any other faculty member come to you expressing 20 concerns about Dr. Kim's complaint?</p> <p>21 A. I don't recall any other faculty member coming 22 to me. It may have happened. I don't recall.</p> <p>23 Q. So before the break, I was asking you about 24 the -- whether or not Dr. Nikolova was put to a higher 25 bar, and you said you don't believe she was. And I</p>	<p>53</p> <p>1 own assessment is -- was that she had done excellent 2 work before she came to UT and in the first few 3 semesters at UT and that she was going to shine again. 4 And I wanted to make sure that we retained her and give 5 her the opportunity to shine again.</p> <p>6 Q. What occurred in the period after the first 7 few semesters that you just referred to that she would 8 shine again? What was the period of not shining?</p> <p>9 MS. HILTON: Objection, form.</p> <p>10 A. You know -- again, you know, I didn't review 11 the case here last night; and I've been out for a while. 12 But from her personal circumstances, you know, she 13 formed a family and there are other things that happened 14 that may have slowed her down and that's sort of 15 natural. And because I knew what she was capable of, I 16 expected her to do it again; and so that's -- that's the 17 position I took.</p> <p>18 Q (BY MR. NOTZON) Okay. And when you say 19 personal circumstances and starting a family, that's the 20 having the children?</p> <p>21 A. You know, having the children, getting to know 22 someone, you know, getting married. I mean, you know, 23 we go through life; and, you know, some people delay 24 certain decisions and others don't. And we just have to 25 take that into account. At least, I believe you have to</p>

<p>54</p> <p>1 take it into account when passing judgment.</p> <p>2 Q. Okay. Is there anything else other than</p> <p>3 having the children and getting married that you include</p> <p>4 in the personal circumstances?</p> <p>5 A. For Dr. Nikolova or for other people?</p> <p>6 Q. For -- well, for Dr. Nikolova, given that you</p> <p>7 used that term related to her, yes.</p> <p>8 A. These are -- that's what I was aware of. So</p> <p>9 if there were other circumstances and she would have</p> <p>10 shared those with me, I would have factored those in as</p> <p>11 well.</p> <p>12 Q. Okay. I'm just asking what you had in your</p> <p>13 mind when you said the term "personal circumstances."</p> <p>14 A. That's what I had in mind, yeah, that she was</p> <p>15 forming a family.</p> <p>16 Q. Okay. So when you say you don't believe she</p> <p>17 was held to a higher standard, when Dean Wood wrote her</p> <p>18 evaluation, she went against you. She went against the</p> <p>19 Budget Council. She went against the Promotion and</p> <p>20 Tenure Committee; and those were very strong votes,</p> <p>21 correct?</p> <p>22 MS. HILTON: Objection, form.</p> <p>23 A. So I'd have to give some explanation here.</p> <p>24 When people go up for promotion, there are written</p> <p>25 documents; and then there are discussions that --</p>	<p>56</p> <p>1 that answer. Let's start at the end. Why do you think</p> <p>2 the Promotion and Tenure Committee writes the first</p> <p>3 draft?</p> <p>4 MS. HILTON: Objection, form.</p> <p>5 A. I can't speculate on this, but that's what I</p> <p>6 understood from -- you know, from discussions with</p> <p>7 various people is that -- that's what has been happening</p> <p>8 for a number of years and stopped at some point.</p> <p>9 Whether it stopped in '19 or stopped in '18, I don't</p> <p>10 know --</p> <p>11 Q. (BY MR. NOTZON) Okay. Well, my --</p> <p>12 A. -- but at a recent point.</p> <p>13 Q. Okay. My question still remains: So you</p> <p>14 said -- I asked you how you understood that a first</p> <p>15 draft is created by the Tenure and Promotion Committee,</p> <p>16 and I understand you're saying you don't know if that</p> <p>17 was the case or not.</p> <p>18 I'm asking: What made you think that was</p> <p>19 the case; and if you could name names of people or how</p> <p>20 you got that understanding, that's what I'm after.</p> <p>21 A. Because some of our faculty -- some of my</p> <p>22 colleagues in the department who served on that</p> <p>23 committee relayed that information to me and to others</p> <p>24 in the department.</p> <p>25 Q. Okay. And could you name those people?</p>
<p>55</p> <p>1 verbal, oral discussions that happen. Departments tend</p> <p>2 to support their own members.</p> <p>3 After the case with Dr. Kim, the</p> <p>4 Department sort of -- you know, if we were going to</p> <p>5 support someone, then we were going to vote strongly in</p> <p>6 favor of that person. We were not going to -- again,</p> <p>7 there was no other weak vote that I recall since Kim. I</p> <p>8 mean, the Department sort of learned a lesson.</p> <p>9 That doesn't mean that the faculty</p> <p>10 members of the Department would not have voiced their</p> <p>11 concerns about the case and that the case is, you know,</p> <p>12 barely meets the bar in some people's opinion or doesn't</p> <p>13 meet the bar. And these verbal concerns would have</p> <p>14 filtered all the way up. So that's why I am saying that</p> <p>15 she wasn't held to a higher bar.</p> <p>16 The other thing that I know is that,</p> <p>17 typically, the promotion -- the Promotion and Tenure</p> <p>18 Committee will draft the first draft of the letter that</p> <p>19 the Dean writes. I don't know if that happened in this</p> <p>20 case or not, but I presume that it may have happened in</p> <p>21 this case. And so by reading the letter that the Dean</p> <p>22 wrote regarding Nikolova's case, I can get a sense of</p> <p>23 what the Promotion and Tenure Committee really was</p> <p>24 thinking, even though they voted for promotion.</p> <p>25 Q. Okay. Let me follow up with some questions on</p>	<p>57</p> <p>1 A. One person which you know that he relayed that</p> <p>2 information to us because it's, I think, in the e-mails</p> <p>3 that you got is Ananth Dodabalaur.</p> <p>4 THE REPORTER: I'm sorry. Can you repeat</p> <p>5 the name?</p> <p>6 THE WITNESS: So I probably will butcher</p> <p>7 it, so you'll have -- you will have to go to the website</p> <p>8 and get the name; but it's "Do," D-O-D-O-B-A- --</p> <p>9 MR. NOTZON: Professor, you don't have to</p> <p>10 spell it now. We'll get it later.</p> <p>11 THE WITNESS: Okay.</p> <p>12 Q. (BY MR. NOTZON) But Ananth is the first name?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And we'll fill in that gap, so.</p> <p>15 Okay. Other than Ananth -- and I</p> <p>16 apologize for the familiarity, but just as a short</p> <p>17 stop -- did anyone else tell you this?</p> <p>18 A. I don't -- and I can't pinpoint a particular</p> <p>19 person. I can't give you a particular name, but I know</p> <p>20 that has come up a number of times. You know, every few</p> <p>21 years we have a faculty member serving on the committee;</p> <p>22 and I probably heard it more than once.</p> <p>23 Q. Okay.</p> <p>24 A. The only reason I remember Ananth is just</p> <p>25 because I saw that e-mail recently.</p>

<p>58</p> <p>1 Q. So if the P&amp;T Committee did not write the 2 first draft and that was solely from Dean Wood, would 3 that change your answer at all as to their perspective? 4 MS. HILTON: Objection, form. 5 A. I -- you know, as I said, I am guessing. I 6 don't know for sure what their perspective was; but 7 given that -- you know, if they did write the letter, 8 that would give me a sense of what they're thinking. 9 And even if they did not write the letter, I know that 10 they meet with the Dean; and they provide feedback to 11 the Dean, which the Dean then factors in the letter. 12 That feedback is verbal feedback and is not necessarily 13 written -- reflected in the report nor in the vote. 14 Q. (BY MR. NOTZON) Would you agree that they 15 would not have the same impetus as the ECE Department 16 Budget Council to make sure they don't have any weak 17 votes on colleagues going up for tenure? 18 MS. HILTON: Objection, form. 19 A. I disagree with that because if you look at 20 the statistics of promotion, at least what I recall 21 seeing in promotion both of the assistant and associate 22 professors, almost everybody -- I mean, the percentage 23 of people who are promoted is extremely high; and if I 24 were to compare this with other universities, I would 25 say that in our case, there tends to be rallying around</p>	<p>60</p> <p>1 Promotion and Tenure Committee is that they voted 7/0 2 for -- to promote Dr. Nikolova, correct? 3 A. I remember there was a strong vote. I don't 4 remember the number, and I didn't take the time to 5 review the dossier before today. 6 Q. Okay. So just to finish the loop, you don't 7 have any indication that the P&amp;T Committee was lukewarm 8 on Dr. Nikolova other than the belief that's unverified 9 that they may have written the first draft, correct? 10 (Simultaneous speakers.) 11 MS. HILTON: Objection, form. 12 Q. (BY MR. NOTZON) You may have walked over each 13 other. Could you repeat your answer, Doctor? 14 A. Yes, I did not talk to the committee. And, I 15 mean -- and I don't know that they wrote the first draft 16 for sure. So, yes, this is sort of an assumption on my 17 part. 18 Q. And then going back -- when I said I was going 19 to follow up, I'm following up, again, on that prior 20 answer. You stated that there were several people in 21 the Budget Council that did not feel strongly about 22 Dr. Nikolova's candidacy for tenure or qualifications 23 for tenure; but they voted for her, anyway, as part of 24 this unspoken feeling that there were going to be no 25 more weak votes after Dr. Kim. Could you name who those</p>
<p>59</p> <p>1 our own in supporting promotion cases. 2 MR. NOTZON: Object as nonresponsive. 3 Q. (BY MR. NOTZON) I'm asking -- well, let me 4 ask it a different way. You have no information that 5 would lead you to believe that the P&amp;T Committee 6 gathered amongst themselves and decided that they 7 weren't going to have any weak votes on candidates 8 coming up for tenure, correct? 9 MS. HILTON: Objection, form. 10 A. That's correct. 11 Q. (BY MR. NOTZON) Okay. But you're testifying 12 that the ECE Budget Council came together and decided 13 that they were not going to have any more weak votes on 14 their colleagues going up for tenure after Dr. Kim? 15 MS. HILTON: Objection, form. 16 A. Nobody -- that's not what I said. Nobody gets 17 together. There's no meeting and people say, "Okay. 18 We're all going to vote for this." But there is sort of 19 peer pressure. There is an understanding, and then 20 those are votes. Okay? So I can't guarantee that it's 21 going to be a hundred percent vote. There is no formal 22 agreement between people that we are all going to vote 23 one way, and that would be true, also, of the Promotion 24 and Tenure Committee. 25 Q. (BY MR. NOTZON) And what you do know of the</p>	<p>61</p> <p>1 people were that were expressing being lukewarm on 2 Dr. Nikolova? 3 A. No, I could not name names. I don't remember 4 who said what during the meeting; but I am reasonably 5 confident that if Dr. Nikolova was a man, not a woman, 6 the vote would have been weak. 7 Q. And why do you have that opinion? 8 A. Because during the meeting, the issue did come 9 up, you know, we don't have enough female faculty 10 members on the faculty. We really would like to keep 11 Dr. Nikolova; and in the anonymous comments that we 12 collected, that sentiment also came through. 13 Q. Did it suggest that -- did those anonymous 14 comments and the comments you received during the 15 discussions of the Budget Council, did they say: 16 Although we know she's not strongly qualified, we still 17 want her because she's a woman? 18 A. Yes. 19 Q. And those anonymous comments, were they 20 written down? 21 A. We collect these anonymous comments with the 22 vote. 23 Q. Okay. And did you turn those over to us? 24 A. I -- I don't know. 25 Q. Okay. Are they -- are those anonymous</p>

<p>62</p> <p>1 comments included in the dossier when it goes up to the 2 P&amp;T Committee?</p> <p>3 A. They may or may not have been included. 4 There's no rule that says that they are to be included, 5 and I don't remember whether they were forwarded or not 6 forwarded.</p> <p>7 Q. Whose decision would that have been? 8 A. I mean, the Dean would know -- would be aware 9 of these anonymous comments; and she could have asked 10 that they be included or not. I mean, if she doesn't 11 ask for them to be included, which they're not supposed 12 to be included, then they would not have been included. 13 If she asked for them to be included, then they would 14 have been included.</p> <p>15 And that decision is not a per- person 16 decision. That would be a rule that she would apply to 17 an entire year. So she might -- like, in 2018, she may 18 have asked that the anonymous comments for everybody be 19 included, or in 2019 she may have done that.</p> <p>20 Q. So let me clarify. You would let her know 21 that there are these anonymous comments and what they 22 were, and then she would then decide to ask for them to 23 be included or not?</p> <p>24 MS. HILTON: Objection, form. 25 A. She would ask -- no. She would say: I want</p>	<p>64</p> <p>1 Q. Okay. So back to my other question that you 2 didn't answer, which is: Whose decision is it that the 3 anonymous comments get included in the dossier -- 4 A. I did answer the question because I told 5 you -- 6 Q. Let me finish. 7 A. I did answer the question. 8 Q. Let me finish. Is it just the Dean, or do you 9 have the authority to include them or not? 10 A. It is just the Dean. The UT rules are not -- 11 do not force us to include them, and we don't include 12 material that we are not asked to include. 13 Q. Okay. Let's go back to when you first met or 14 communicated with Dr. Nikolova. Did you make contact 15 with her first, or did she make contact with you first? 16 A. What are you referring to specifically? 17 Q. The beginning of whenever you first met 18 Dr. Nikolova. 19 A. I first met Dr. Nikolova, to the best of my 20 recollection, when she came to interview. 21 Q. Okay. Do you recall if someone reached out to 22 her to recruit her to come to UT or if she applied to UT 23 for an open position? 24 A. The way that this works is whenever we have an 25 open position, we ask all our colleagues to reach out</p>
<p>63</p> <p>1 all of the anonymous comments that we receive for all of 2 the people going up for promotion in a particular year. 3 MR. NOTZON: Object as nonresponsive. 4 Q (BY MR. NOTZON) My question is: You said in 5 your prior testimony that she would know of these 6 anonymous comments; and I'm asking the following 7 question, that -- 8 A. You are making an assumption here that she -- 9 the way you're phrasing your question, you're making an 10 assumption that she becomes aware of the specific 11 comments and then decides to include them or not include 12 them. And what I'm telling you is that these are rules 13 that have not been consistently applied in which in a 14 given year she might say, "Please forward all of the 15 anonymous comments that you got," before she would know 16 what these anonymous comments are; in other years, she 17 wouldn't. And since this is not a UT rule, it really is 18 up to the Dean. 19 Q (BY MR. NOTZON) And you're testifying that 20 you don't recall what you did in this instance? 21 A. No, I don't recall what we were asked to do in 22 this instance; but you probably know what we did because 23 if you -- I presume that you have her dossier with you. 24 And if it's in the dossier, then it was included; if 25 it's not in the dossier, then it was not included.</p>	<p>65</p> <p>1 and ask people to apply or ask people whether they have 2 students that we should be recruiting. So she may very 3 well may have been approached by one of my colleagues 4 who told her that we're looking for someone and, "Why 5 don't you apply?" 6 Q. Okay. 7 A. That does not mean that, you know, she was 8 automatically going to get the position because a lot of 9 people are asked to join the pool that way. 10 Q. Okay. So would it be accurate that you didn't 11 contact Dr. Nikolova yourself? 12 A. To the best of my recollection, that's true. 13 Q. Okay. And you met her at an interview, you 14 said, when she came to the campus? 15 A. Yes. I would have met her. I would have 16 attended her talk, and I would have also spent time with 17 her. 18 Q. And how many other people applied for that 19 position? 20 A. I have no recollection, and I don't keep track 21 of that. 22 Q. You're clear it's more than just her? 23 A. Yes, I'm clear that it's more than her. 24 Q. Okay. And when it was time to make the 25 decision on who to hire, you were a part of that</p>



<p>66</p> <p>1 process; is that correct?</p> <p>2 A. That's correct.</p> <p>3 Q. Who else was a part of that process?</p> <p>4 A. I don't remember the names, but we have a</p> <p>5 recruiting committee that we put in place every year.</p> <p>6 So that committee would have been part of the process.</p> <p>7 The committee makes a recommendation to the faculty.</p> <p>8 The faculty then gets together and votes on making an</p> <p>9 offer. That then goes to the Dean and the Dean needs to</p> <p>10 endorse that offer or -- and then that would go to the</p> <p>11 Provost. And then the Provost would, you know, agree or</p> <p>12 not agree to make the offer.</p> <p>13 At the assistant professor level, in most</p> <p>14 cases, my recollection -- and, again, you need to</p> <p>15 double-check -- the Dean is delegated to make the</p> <p>16 decision on behalf of the Provost. So that may not have</p> <p>17 gone up to the Provost.</p> <p>18 In this very specific case, we had made</p> <p>19 offers to probably at least one other faculty member. I</p> <p>20 mean, so there was a search. The search didn't yield</p> <p>21 the results; and then we extended the search. And it</p> <p>22 was during that extended period that we interviewed</p> <p>23 Dr. Nikolova.</p> <p>24 Q. So there was somebody on campus that was</p> <p>25 offered the job that turned it down?</p>	<p>68</p> <p>1 who then turned down that offer, which then put the ball</p> <p>2 back in the Department's court?</p> <p>3 A. That's correct.</p> <p>4 Q. Okay. All right. And so at what point did</p> <p>5 you talk to Dr. Nikolova to make her the offer? Was it</p> <p>6 after the Dean had approved that?</p> <p>7 A. So --</p> <p>8 MS. HILTON: Objection, form.</p> <p>9 A. -- again, I told you what the process is. The</p> <p>10 Recruiting Committee makes a recommendation. The</p> <p>11 faculty then votes on that recommendation. If the</p> <p>12 faculty approves that, then I go to the Dean; and if the</p> <p>13 Dean says, "Yes, you can make an offer to Dr. Nikolova,"</p> <p>14 there is some bureaucratic steps that have to be taken</p> <p>15 at that point.</p> <p>16 And then I would normally call the</p> <p>17 candidate and tell them, "We're going to make you an</p> <p>18 offer," and start negotiations.</p> <p>19 Q. Okay. So you contacted Dr. Nikolova after all</p> <p>20 the approvals had happened?</p> <p>21 A. At least verbal -- some, you know, votes and</p> <p>22 written approvals and at least a verbal approval from</p> <p>23 the Dean.</p> <p>24 Q. Okay. And what do you recall about that</p> <p>25 communication you had with Dr. Nikolova? Was it verbal</p>
<p>67</p> <p>1 A. No. We were recruiting, so that means that</p> <p>2 that somebody was not on campus. That somebody was</p> <p>3 somewhere else. Whether -- I don't recall the details</p> <p>4 of that, whether we ended up making an offer and that</p> <p>5 person just didn't join; or that, you know, while we</p> <p>6 were making an offer, the person told us that she wasn't</p> <p>7 going to be able to join. But the end result is at the</p> <p>8 end of the recruiting season, we didn't -- we didn't</p> <p>9 fill that position; and then we extended it. We</p> <p>10 extended the search.</p> <p>11 Q. Oh, okay. So Dr. Nikolova wasn't part of that</p> <p>12 first search process?</p> <p>13 A. That's my recollection.</p> <p>14 Q. Okay. And --</p> <p>15 A. Okay. I don't recall whether she applied or</p> <p>16 was approached during that first stage; but she wasn't</p> <p>17 selected as part of the first group that we interviewed,</p> <p>18 so -- or she was approached afterwards. I have no</p> <p>19 recollection of that.</p> <p>20 Q. You just recall that you don't remember her</p> <p>21 being a part of that first search?</p> <p>22 A. I remember that she wasn't one of the names</p> <p>23 that surfaced during the first search.</p> <p>24 Q. Okay. And there were multiple people involved</p> <p>25 there and resulted, like you said, in a single selectee,</p>	<p>69</p> <p>1 or in writing?</p> <p>2 A. The first interaction would be verbal. I</p> <p>3 would -- typically, I would say, "Okay. We're going to</p> <p>4 make you an offer. Here's the offer. Here are the</p> <p>5 broad terms of the offer. It consists of these things.</p> <p>6 That's what I need from you. I'm going to draft an</p> <p>7 offer letter. I'll send it to you. We can then discuss</p> <p>8 it while it's also proceeding through the bureaucratic</p> <p>9 channels."</p> <p>10 Q. Okay. And when do you recall her -- or do you</p> <p>11 recall her expressing an interest in having her time</p> <p>12 teaching at A&amp;M count toward her probationary clock?</p> <p>13 A. I don't recall whether she expressed an</p> <p>14 interest or not; but whenever I meet with an candidate</p> <p>15 that is an assistant professor somewhere else or an</p> <p>16 associate professor somewhere else, I will tell them</p> <p>17 about the process, what's the promotion and tenure</p> <p>18 process at UT. I will tell them that, you know, UT uses</p> <p>19 a six-year rule. So you have to stay as an assistant</p> <p>20 professor for six years. You have to serve as an</p> <p>21 associate for six years before UT considers you.</p> <p>22 I would tell them that we -- as a</p> <p>23 Department, we would look at the -- you know, your</p> <p>24 service at a prior institution. And we would argue</p> <p>25 that, although technically it's early because it's</p>



<p>70</p> <p>1 breaking the UT rules, that, you know, we would like to 2 factor this and push you forward. 3 I would also tell them that there is a 4 difference between the, quote, the technically early 5 cases and the real early cases and that, you know, the 6 real early cases are like an award; and for that to 7 happen, you really have to excel. 8 Q. And this is a communication you have -- you 9 would have with any and every faculty member that you 10 you'd make an offer to? 11 A. This is an communication that I would have 12 with any candidate that we're interviewing who happens 13 to be an assistant or an associate professor somewhere. 14 If that candidate was a post doc or came from industry 15 or, you know, whatever, wasn't a faculty member 16 somewhere else, then the discussion would focus only on 17 the regular promotion flow and also on the real early 18 promotion, that, "We have done this sometimes. We have 19 succeeded, and this is what it takes." 20 Q. Okay. I just was trying to clarify that this 21 just wasn't a Dr. Nikolova conversation. This was a 22 conversation that you would have with somebody in 23 Dr. Nikolova's situation? 24 A. Right. So that's a conversation I had with 25 Hao Zhu. That's a conversation I had with -- I'm</p>	<p>72</p> <p>1 has to agree to. 2 Q. Okay. All right. So Dr. Nikolova comes and 3 she starts up, and she's hired in -- she starts 4 working -- well, she's hired -- made the offer in the 5 Summer of '13 and then starts working in January of '14. 6 Is that your memory? 7 A. I don't remember the years, but I do remember 8 that she started in January of a year. 9 Q. Okay. And one of the reasons -- well, do you 10 recall that in the Summer of '13, when the offer was 11 made to Dr. Nikolova, that the UT rule, or UT System 12 rule, was that if the offer was made after, I think it's 13 May 1st, that the school from which the faculty member's 14 coming has to approve releasing that individual if 15 they're going to start in the Fall Semester; is that 16 correct? 17 A. I don't think that that's a UT rule. My 18 understanding is that that's an agreement between 19 different universities. 20 Q. Okay. So but that -- whose rule it is is up 21 for -- up for question, but the rule is accurately 22 stated? 23 A. That's my understanding. Okay? I mean, I'm 24 not the one who has to deal with these rules. These are 25 dealt with at the Provost level.</p>
<p>71</p> <p>1 blanking on his name right now -- Alex Dimakis, with Dan 2 Wasserman. You know, anyone who was a faculty member 3 somewhere else, I would have had that conversation with 4 them. 5 Q. Okay. And that's because every faculty member 6 that's being hired from one university to another wants 7 to know that they didn't waste "X" number of years on a 8 tenure clock. They want to know, you know, "Can I get 9 some credit for this," right? 10 MS. HILTON: Objection, form. 11 A. Different people have different attitudes 12 towards that. Some say, "Okay. This extends our 13 runway, so this is better for us. You know, we would be 14 better prepared for promotion." 15 Others are -- you know, are stuck on 16 timelines; and they say, "Yeah, I'd like to be able to 17 go up for promotion at the time that I would have 18 normally went through in this other institution." 19 So it depends on the individual. 20 Q. Okay. And the circumstances, yeah. 21 A. What do you mean "the circumstances"? 22 Q. The circumstances that the individual finds 23 themselves in, right? 24 A. Yeah. At the end of the day it's a decision 25 that the individual has to make and the Budget Council</p>	<p>73</p> <p>1 Q. Okay. 2 A. I mean, I know vaguely that there is a 3 deadline of May 1st; and any offer that we're making 4 after May 1st has implication for when the person can or 5 cannot start. 6 Q. Would it be accurate that if Dr. Nikolova 7 could have started in the Fall Semester of that year, 8 that ECE would have gladly accepted her starting then 9 and not waiting? 10 MS. HILTON: Objection, form. 11 A. ECE would have gladly accepted her. Whether 12 the delay was due to the May 1st rule or because 13 Dr. Nikolova wanted to start in January, I don't recall. 14 And we have a lot of these cases where sometimes the 15 person doesn't want to start until January because they 16 want to settle, find a place, you know, whatever, any of 17 a number of reasons. 18 Q. (BY MR. NOTZON) Right. I'm just asking for 19 your -- for what you know. 20 A. I don't recall what -- what I know is, yes, I 21 mean, when we make an offer, I tell people, "You can 22 start in the fall, or you can start in January if you 23 want to." If it's going to be beyond January, then it 24 requires more approvals. 25 Q. So, based on your prior testimony -- tell me</p>

<p style="text-align: right;">74</p> <p>1 if that is correct -- that you don't make the decision  2 as to whether or not to call A&amp;M and ask if it's okay if  3 they release her for the Fall Semester; is that right?  4 A. No, it's not my decision.  5 Q. Okay. And you're saying you believe it's the  6 Provost's Office decision.  7 A. That's my understanding.  8 Q. Okay. And did you ask that the Provost Office  9 make the call?  10 A. I don't ask for anything. I mean, the only  11 thing I ask for is, "Here is my offer letter."  12 If the candidate says, "I want to start  13 in the Fall." And if the offer is being made after  14 May 1st, then, the Dean cannot authorize the offer, even  15 if it's assistant professor. That would have to go  16 through the Provost, and then the Provost has to do what  17 the Provost is supposed to do. So it's not -- I don't  18 ask for anything. There is a process that everybody has  19 to follow.  20 Q. All right. And so you don't know what the  21 decision-making process was at the Provost's Office to  22 ask A&amp;M, or not, if they'd release Dr. Nikolova? That  23 would be accurate; you don't know?  24 A. Well, I think there is a misrepresentation in  25 what you're saying. First of all, yes, I don't know;</p>	<p style="text-align: right;">76</p> <p>1 offer is being made after May 1st, in which case they're  2 forced to do something; or we tell them the candidate is  3 going to start in January. There's no decision to be  4 made. It's like here's a red light, you know. There's  5 no decision there you make or not make.  6 Q. So in Dr. Nikolova's case, did she decide she  7 wanted to start in January; or did UT decide to offer  8 her a job starting in January?  9 A. I have no recollection of what she decided or  10 not. The only thing I know, because that's the process  11 I use every time, is I ask the candidate, "When do you  12 want to start?"  13 And I don't remember whether she said, "I  14 want to start in the Fall." And then, you know, we  15 tried to make her start in the Fall and we couldn't, for  16 some reason, or she said, "I want to start in January,"  17 in which case, there was no issue.  18 Q. Okay. So since you don't remember,  19 Dr. Nikolova was someone that I could ask about that?  20 A. You can ask Dr. Nikolova; but if you were --  21 if I were sort of -- you know, have to use the  22 information that you're providing on whether this was  23 "X" or "Y," I would have to see what happened at the  24 Provost level. I mean, I would have to see the original  25 offer letter, whether it had -- which date did it have</p>
<p style="text-align: right;">75</p> <p>1 but, second, it's not -- the Provost would not make a  2 decision to call or not to call. If this is, indeed, a  3 rule that all universities have to abide by, then any  4 offer that goes after May 1st, the Provost will do the  5 right thing and call the Provost in the other  6 institution. Okay?  7 So it's not a choice for the Provost to  8 call or on not call. If the offer is being made after  9 May 1st, it is my understanding that the Provost has to  10 approach the Provost in the other situation.  11 Q. Oh, okay. Perhaps we have a different  12 understanding or a miscommunication. Let me clarify it.  13 I believe that the rule is: If the offer is made after  14 May 1st to start in the Fall, you have to make the call;  15 but if you're not starting in the Fall, then no call  16 needs to be made?  17 A. That's correct.  18 Q. So the Provost's Office would have to make a  19 decision, then, to call if Dr. Nikolova's going to start  20 in the Fall; but if she's just going to start in the  21 Spring, there's no need for them to call. So a decision  22 has to be made to call or not call, right?  23 A. There is no decision because we tell them,  24 after speaking with the candidate, that the candidate  25 wants to start in the Fall, in which case -- and the</p>	<p style="text-align: right;">77</p> <p>1 and see whether that went to the Provost and the Provost  2 came back saying, "No, you can't hire her because A&amp;M  3 said you can't."  4 Q. Okay. Now, so based upon the conversation you  5 had with Dr. Nikolova, which is the conversation you'd  6 have with any assistant professor that you're recruiting  7 and hiring, when it came time to -- when you hired her,  8 you understood that you and the Budget Council was going  9 to put her on track to go up for tenure at the sixth  10 year, counting both programs; is that right?  11 MS. HILTON: Objection, form.  12 A. That's not right because what I told you is  13 that when she joined, assuming no extension of her  14 block, she would be forced to go up for tenure six years  15 after joining. Anything that happens before that  16 deadline or if there's an extension to that deadline  17 would have to come from Dr. Nikolova. So Dr. Nikolova  18 would have to say, "I would like to go up for  19 promotion."  20 When Dr. Nikolova would go up for  21 promotion, when she would express something like that,  22 we would have a discussion. I would offer my opinion,  23 and go through Budget Council. And then the Budget  24 Council either approves it or doesn't approve it, but it  25 has to start with Dr. Nikolova.</p>

<p>78</p> <p>1 Q. (BY MR. NOTZON) Okay. And when you say the 2 Budget Council approves it or disapproves -- or doesn't 3 approve, that's the Step 1 of the two-step Budget 4 Council vote? 5 A. That's correct. 6 Q. Okay. And from your experience with other 7 assistant professors that UT hired for ECE, that if they 8 had a total of six years, accounting for extended -- 9 probationary extensions and whatnot, whatever, you know, 10 the clock calculation is, that the justifi- -- or the 11 explanation for going up before six years at UT, it was 12 sufficient to say that they had six total years at both 13 programs as the reason why they were going up before six 14 years at UT; is that right? 15 MS. HILTON: Objection, form. 16 A. If you look at my letter for Nikolova and 17 others, you'll see that the first paragraph will say, 18 you know, "We're going" -- I don't remember the exact 19 verbiage; but it mentioned that we're putting this 20 person up for promotion to this position and that 21 person, if promoted, would have served "X" number of 22 years in rank. And if that rank is less than six, I 23 would have said, "This is, therefore, an early promotion 24 case" or "It is, therefore, a technically early 25 promotion case because if you count these other years,</p>	<p>80</p> <p>1 him. 2 Q. Okay. Let me throw out a name and see if it 3 refreshes your recollection; and I'm going to -- I'm not 4 going to try the last name, maybe. Is it Sujay? 5 A. Yeah, Sujay Sanghavi. 6 Yeah. Okay. So the difference between 7 Sujay Sanghavi and Alex Dimakis is that Sujay was 8 recruited before I joined; and Alex was recruited after 9 I joined. So I was part of the recruiting process; and 10 that's why, you know, I remember him more than Sujay. 11 Q. Right, but did Sujay go up while you were 12 Chair? 13 A. He went up while I was Chair, but I don't 14 remember whether there was a discussion of technically 15 early or not technically early. You know, this was -- 16 he probably went up early in my tenure; and I basically 17 have no recollection of -- 18 Q. Okay. 19 A. -- what happened then. 20 Q. Do you recall if he had time -- he was hired 21 with years of experience as an assistant professor at 22 some other institution? 23 A. Yeah, I know that he came from Purdue; and I 24 presume that he was an assistant professor at Purdue. I 25 mean, I just don't remember the details of his case.</p>
<p>79</p> <p>1 that would not have been an early promotion case." 2 Q. Okay. 3 A. Having said that, if Dr. Nikolova had joined 4 UT, you know, immediately as her first position and 5 would have said, "I want to go up for promotion after 6 four years," we'd have said, "No, don't go up for 7 promotion. We don't think it's something that you 8 should do." And if the Budget Council would have 9 approved it, my letter would have said, "This is an 10 early promotion." And that would be the end of it. 11 Q. Right. Okay. And you've said similar things 12 in other faculty members' letters that you've written; 13 is that right, that were going up technically early but 14 not early, early, not truly early? 15 MS. HILTON: Objection, form. 16 A. Yes. This is -- this is exactly the same 17 text, copy and paste from letter to letter. When they 18 have the same case, the verbiage is exactly the same. 19 Q. (BY MR. NOTZON) Okay. And one example would 20 be Professor Dimakis? 21 A. One example would be Professor Dimakis. 22 Q. Okay. Is there another example that you 23 recall? 24 A. Not at the moment. Dimakis was the one that 25 was probably closest to her, and that's why I remember</p>	<p>81</p> <p>1 Q. Okay. And you don't remember if he was 2 technically early or true early? 3 A. Well, he was not -- he definitely was not put 4 up as an early case because, at least in my mind, he was 5 not one of those super superstars that would deserve an 6 early promotion. So if he went early, it would have 7 been a technically early case. 8 Q. Okay. And I understand that's your best 9 memory looking back over a period of years; and I'm just 10 asking for your memory, so no problem. 11 MR. NOTZON: Okay. We are at -- let's go 12 ahead and go off the record. 13 THE REPORTER: We're going off the record 14 at 12:14 p.m. 15 (Off the record from 12:14 to 1:20 p.m.) 16 THE REPORTER: We're back on the record 17 at 1:20 p.m. 18 Q. (BY MR. NOTZON) Okay. Back from lunch. 19 And I didn't say this earlier, 20 President Tewfik, but I appreciate you making yourself 21 available on the weekend. I know it was at your 22 request; but, still, it's still a weekend. 23 I wanted to see if I could refresh your 24 recollection just a -- and get your responses. 25 Dr. Nikolova -- and this is in relation to the</p>

<p style="text-align: right;">82</p> <p>1 conversation you had with her the summer that you were</p> <p>2 offering her the position and whether or not she would</p> <p>3 start in the fall or the spring. And do you recall</p> <p>4 telling her that she did not have an option to start in</p> <p>5 the fall, that she would have to start in the spring</p> <p>6 because -- and -- because there was an agreement that --</p> <p>7 between universities if she wasn't offered before</p> <p>8 May 1st, she couldn't start in the fall?</p> <p>9 A. I have no recollection of these details.</p> <p>10 Q. Okay. And to follow that, that she doesn't</p> <p>11 recall being given the option to say whether she wanted</p> <p>12 to start in the fall; and if she did, the process that</p> <p>13 would have to occur for her to do that?</p> <p>14 MS. HILTON: Objection, form.</p> <p>15 A. To answer your question -- I mean, you're</p> <p>16 asking me if she didn't recall?</p> <p>17 Q. (BY MR. NOTZON) No. I'm asking if -- if that</p> <p>18 is consistent with your memory as to what did not occur</p> <p>19 in your conversation with her.</p> <p>20 MS. HILTON: Objection, form.</p> <p>21 A. I have no recollection of what occurred or did</p> <p>22 not occur. I can tell you standard practice, but I have</p> <p>23 no recollection of what occurred or did not occur.</p> <p>24 Q. (BY MR. NOTZON) Okay. I guess the last</p> <p>25 question on that line is: You've testified about what</p>	<p style="text-align: right;">84</p> <p>1 A. I don't recall what was in her packet; but I</p> <p>2 can tell you, again, standard practice, which there are</p> <p>3 letters of recommendations. During the interview, we</p> <p>4 may have asked questions; and then we also reach out to</p> <p>5 people we know to ask about the candidate we're</p> <p>6 recruiting.</p> <p>7 Q. Okay. Was Dr. Nikolova asked to present</p> <p>8 similar information as would be required for the tenure</p> <p>9 application, that is, her research, her funding, her</p> <p>10 service, her teaching, those kinds of things?</p> <p>11 A. She would have been asked; and, again, that's</p> <p>12 standard practice. She would have had to submit her CV.</p> <p>13 She would have had to submit a teaching statement and a</p> <p>14 research statement and a list of potential reference</p> <p>15 letter of recs.</p> <p>16 Q. And publications?</p> <p>17 A. Well, the CV has the publications.</p> <p>18 Q. Okay. Are there teaching scores required or</p> <p>19 not required in the application, the CIS scores?</p> <p>20 A. The application and the CV and a teaching</p> <p>21 statement. So if the candidate volunteers information</p> <p>22 about their teaching scores, great; if they don't,</p> <p>23 that's up to them.</p> <p>24 Q. Okay. And did you find Dr. Nikolova's</p> <p>25 performance at A&amp;M to be -- well, do you remember any</p>
<p style="text-align: right;">83</p> <p>1 the process is, and we know that you knew that at the</p> <p>2 time you talked to her; is that correct?</p> <p>3 A. That's correct.</p> <p>4 Q. Okay. And the -- whether you told her that</p> <p>5 entire process or not, which seems to conflict with her</p> <p>6 memory, as I've represented it to you, you can't testify</p> <p>7 one way or the other, sitting here today, what actually</p> <p>8 occurred in that conversation?</p> <p>9 MS. HILTON: Objection, form.</p> <p>10 A. That's correct, I have no recollection of the</p> <p>11 details. Again, I can, if you want, tell you the</p> <p>12 standard practice of what happens in both circumstances.</p> <p>13 Q. (BY MR. NOTZON) No, you already did. So I</p> <p>14 think we're good. Thank you.</p> <p>15 Did you do any review of her performance</p> <p>16 as an assistant professor at A&amp;M?</p> <p>17 A. Can you repeat that again? Did I do -- did I</p> <p>18 review any?</p> <p>19 Q. Yes, yes.</p> <p>20 A. I don't recall reviewing any of her</p> <p>21 performance at A&amp;M.</p> <p>22 Q. Okay. So when she was -- when she applied and</p> <p>23 she was selected as the top candidate in the second</p> <p>24 search, that would not have been part of her application</p> <p>25 process?</p>	<p style="text-align: right;">85</p> <p>1 quantitative, or qualitatively, how you viewed her</p> <p>2 performance at A&amp;M?</p> <p>3 MS. HILTON: Objection, form.</p> <p>4 A. I don't recall that I focused on her</p> <p>5 performance at A&amp;M. What I focused on, personally, is</p> <p>6 the talk that she gave and my impression of how novel</p> <p>7 her research was and the feedback that my colleagues</p> <p>8 gave on the interview process.</p> <p>9 Q. (BY MR. NOTZON) Okay. And earlier you</p> <p>10 testified about how well she was doing in the first</p> <p>11 couple of years of her employment at UT and that she</p> <p>12 fell off. What was she doing right during those first</p> <p>13 couple of years? Do you have specific things in mind</p> <p>14 where she was shining?</p> <p>15 MS. HILTON: Objection, form.</p> <p>16 A. So she was on the same -- I mean, she was</p> <p>17 working on the same topics, as far as I recall, that we</p> <p>18 hired her for, which, to me, was -- I mean, this was a</p> <p>19 really nice topic, an innovative topic. Her teaching</p> <p>20 scores were nice. They were good. There was no reason</p> <p>21 for me to raise any issue with her.</p> <p>22 I don't remember precisely what -- our</p> <p>23 discussions. You know, like, I did not look precisely</p> <p>24 at how many papers she's publishing; but, overall, she</p> <p>25 seemed to be fine. And even if she had slowed down in</p>

<p style="text-align: right;">86</p> <p>1 her publications at the time, I would not have been  2 concerned. So for that reason, my recollection is that  3 she was doing fine.  4 Q. Okay. So your testimony is based upon your  5 memory of that feeling of being okay with her  6 performance at that -- above the tenure level -- track,  7 that is?  8 MS. HILTON: Objection, form.  9 A. My -- my recollection is feeling good about  10 where she was, given where she was in her trajectory.  11 It wasn't about, you know, is she ready to be promoted  12 or not.  13 Q. (BY MR. NOTZON) Right, I misspoke. That's  14 why right at the end I tried to add that in.  15 And "trajectory" is the word you used,  16 and I will use that word. She seemed to be on the right  17 trajectory?  18 A. That's right.  19 Q. Okay. And then, when she fell off that  20 trajectory, where -- did she fall off that trajectory on  21 all criteria or specific ones; and if you could,  22 identify the ones where you felt like she was falling  23 off?  24 A. Well, what started to happen -- and I can't  25 give you exact, precise dates -- I do recall that we</p>	<p style="text-align: right;">88</p> <p>1 and I remember vaguely at the time that I also asked her  2 to have a mentor out of the area, to assist with other  3 issues that she raised in some of our conversations.  4 Q. And did she follow that instruction?  5 A. I presume, yes; but I have no recollection of  6 asking or, you know, confirming it one way or the  7 another.  8 Q. So, just to clarify, you advised her to get a  9 mentor outside of the two individuals you named?  10 A. Outside of the area, not just those two  11 individuals. You know, the department is broken into  12 different areas. So I just said, "Okay. Let's find  13 someone who is going to advise you." The concerns that  14 she had were not about research, you know, how to, you  15 know, interact with other people in the department --  16 that's sort of what I remember -- and other issues along  17 those lines. And so I said, "Let's have another mentor  18 outside of the area who will not pass judgment on your  19 work, but could help you with other issues that you may  20 be navigating."  21 Q. Okay. And I'm just trying to clarify: That  22 other person would be other than the two people you'd  23 already named?  24 A. Obviously, because those two people are in the  25 area.</p>
<p style="text-align: right;">87</p> <p>1 were in our temporary location in that UTA building;  2 and, you know, that might help us find exactly when that  3 happened. My colleagues in the area came to me and said  4 they were concerned that she wasn't publishing enough  5 and that if that continued, then we would have  6 difficulty with the promotion cases; and I wanted her to  7 succeed.  8 So we started to have conversations at  9 that point. I think my colleagues were her mentors, as  10 far as my understanding. That's what they told me.  11 They reached out and told her that they had these  12 concerns, and they asked me to also speak with her.  13 Q. Who came to you with concerns?  14 A. Constantine Caramanis did, and Sanjay  15 Shakkottai did.  16 Q. And were they her mentors, as well; or are  17 those two separate people?  18 A. They were her mentors, as far as I recall; and  19 they were the people who also prepared her case. So  20 that, you know, most likely means that they were her  21 mentors as well.  22 Q. Okay. And I'm just trying to clarify that  23 there was no one else that was coming to you with  24 concerns about her at that time?  25 A. These were the people who were closest to her;</p>	<p style="text-align: right;">89</p> <p>1 Q. Okay. You know that. I don't know that, and  2 maybe other people don't know that.  3 Okay. Did Dr. Nikolova's -- so is it  4 your testimony that you don't remember anything specific  5 that she was doing that she was not shining in that  6 "middle period," let's call it?  7 A. That's not --  8 MS. HILTON: Objection, form.  9 A. That's not what I said. I said they  10 specifically came and told me that they were concerned  11 about her publication rate.  12 Q. (BY MR. NOTZON) Okay. And that's it?  13 A. That was their main concern at the time that I  14 recall. I mean, there may be other things; but that's  15 the one that stuck in my mind.  16 Q. Okay. Did you have any observations that you  17 felt like she wasn't shining, as you testified earlier?  18 MS. HILTON: Objection, form.  19 A. The fact that her publication record wasn't as  20 strong, that she was no longer on the trajectory that we  21 expect for people at her stage of development was a  22 concern.  23 Q. (BY MR. NOTZON) Okay. And I want to be clear  24 that the falling off on the publication rate, was that  25 in comparison to her prior rate or in comparison to</p>

<p>90</p> <p>1 other faculty in the department?</p> <p>2 A. This is a comparison to what is expected from</p> <p>3 someone in her area.</p> <p>4 Q. Okay. So a different area might have an</p> <p>5 expectation of more or less papers; but for her area,</p> <p>6 she was falling below the expectation of per-year</p> <p>7 publication?</p> <p>8 A. Again, I don't remember the exact numbers; but</p> <p>9 my recollection today is that she was below the</p> <p>10 expectation of any area. Some areas are more</p> <p>11 complicated because they have experiments; and, you</p> <p>12 know, it takes longer to publish papers. Some areas are</p> <p>13 more theoretical, like, Evdokia's. She was below</p> <p>14 anything that we had. That was my recollection.</p> <p>15 Q. On a per-year basis?</p> <p>16 A. On a per-year and cumulative basis as well.</p> <p>17 Q. Okay. But when you answered the question</p> <p>18 before, you were saying "below her area," because that</p> <p>19 would be the relevant measure to be looking at, correct?</p> <p>20 MS. HILTON: Objection, form.</p> <p>21 A. That is correct. For me, that's what I do. I</p> <p>22 look at your specific area.</p> <p>23 Q (BY MR. NOTZON) Okay. And is it your</p> <p>24 testimony that if she wasn't meeting it for any area,</p> <p>25 that's maybe a heightened concern?</p>	<p>92</p> <p>1 Q. -- or above a number?</p> <p>2 A. Above a number and -- yes.</p> <p>3 Q. All right. Is there any particular document</p> <p>4 that we could look at to find out what that number is</p> <p>5 related to Dr. Nikolova's case?</p> <p>6 A. I don't know that there is a particular</p> <p>7 document, but she must have provided you with lots --</p> <p>8 you know, we had these discussions a number of times.</p> <p>9 And we asked her to provide peers over the years so that</p> <p>10 we can compare the numbers and she did provide peers</p> <p>11 and these peers weren't necessarily peers that we would</p> <p>12 consider as peers, but it's highly unusual for this</p> <p>13 exercise to happen. I don't recall it happening with</p> <p>14 any faculty member where, early on, we would have</p> <p>15 several conversations asking you to show us others who</p> <p>16 are in your area who seem to have similar publication</p> <p>17 numbers.</p> <p>18 Q. Okay. And was she able to show you that?</p> <p>19 A. She did show me and she did show my colleagues</p> <p>20 who raised the issues on that and their concerns were</p> <p>21 that these faculty members were in different disciplines</p> <p>22 and that numbers -- you know, she was basically</p> <p>23 cherry-picking who to compare to and that this was not</p> <p>24 going to be representative or relevant for our</p> <p>25 discussion.</p>
<p>91</p> <p>1 A. That would be a heightened concern to my</p> <p>2 colleagues because if that was the situation, then, when</p> <p>3 promotion time came or when people would review her,</p> <p>4 they would raise this, which they did.</p> <p>5 Q. Okay. And, sitting here right now, can you or</p> <p>6 can you not give us that number that would be the bare</p> <p>7 minimum for either measure, either across any area or</p> <p>8 her area specifically?</p> <p>9 A. No, I can't give you a number because this is</p> <p>10 a relative number, so I have to look at that. You know,</p> <p>11 I have to refresh memory. I've been out of this for two</p> <p>12 or more years. The last promotion I did was probably</p> <p>13 three years ago. So, I mean, these numbers aren't fresh</p> <p>14 in my mind.</p> <p>15 Q. Okay. And do those numbers change from year</p> <p>16 to year?</p> <p>17 A. They don't. And the numbers are -- you know,</p> <p>18 you could have a very good year and a somewhat less good</p> <p>19 year or bad year; and, you know, we sort of average</p> <p>20 this. But if you're consistently not on the trajectory,</p> <p>21 then that's a problem.</p> <p>22 Q. Right. So you want your cumulative to be at a</p> <p>23 number, and you want your per-year average to be at a</p> <p>24 number --</p> <p>25 A. That's correct.</p>	<p>93</p> <p>1 Q. Her cherries weren't cherries?</p> <p>2 A. They were not the right cherries.</p> <p>3 Q. Okay. So part of the tenure process is a</p> <p>4 third-year review, kind of the midway; is that correct?</p> <p>5 A. That is correct.</p> <p>6 Q. And for these faculty members that are hired</p> <p>7 with teaching experience at a prior university, do you</p> <p>8 try to set that third-year review at the third year from</p> <p>9 the beginning of their teaching experience at the other</p> <p>10 school so that it's in the third year of the total six</p> <p>11 of the technically early period?</p> <p>12 A. No. That third --</p> <p>13 MS. HILTON: Objection, form.</p> <p>14 A. No. That third-year review happens at the</p> <p>15 third year of you being at UT.</p> <p>16 Q (BY MR. NOTZON) Okay. So if somebody goes up</p> <p>17 for promotion at the second year at UT, because they had</p> <p>18 four years or more somewhere else, then, there would be</p> <p>19 no third-year review?</p> <p>20 A. That's correct.</p> <p>21 Q. Okay. And that line of thought would continue</p> <p>22 for each subsequent year, third year, fourth year,</p> <p>23 et cetera?</p> <p>24 A. Can you elaborate what you mean by this?</p> <p>25 Q. Oh, you know, I guess we can go through it.</p>



<p style="text-align: right;">94</p> <p>1 So at the third year, if they had three years or more at  2 a prior university, there wouldn't be a third-year  3 review because that would be the year they're going up  4 for tenure; is that right?  5 A. You lost me completely here.  6 Q. Okay.  7 A. What are you asking?  8 Q. I'll start over.  9 A. Okay.  10 Q. I asked you before about if somebody had two  11 years and four or more somewhere else, and you answered  12 that question already. So the next one is: Third year,  13 third year at UT, with three or more years somewhere  14 else, is there going to be a third-year review? And I'm  15 assuming not because that would be the year they go up  16 for tenure, technically?  17 A. No, they're going to have a third-year review  18 because the third-year review is mandated by UT in your  19 third year at UT.  20 Q. Okay. So they'd go through the third-year  21 review and the tenure review at the same time?  22 A. If that happens because they would be going  23 through the promotion technically early, but the  24 third-year review happens at the third-year review. We  25 can't do it technically early, and we can't do it</p>	<p style="text-align: right;">96</p> <p>1 where the candidate has to submit all of their material.  2 Then a committee is formed. That committee is formed  3 sometimes in November. Sometimes in October. Sometimes  4 in December. And most years the committee will look at  5 all of the cases in December. They will draft a first  6 report in either December or early January.  7 Our practice in the department -- and I  8 can't speak to the rest of the school or university --  9 is to share that document with the candidate and then  10 ask the candidate if she or he feels there are factual  11 errors or there are redactions or edits they would like  12 the committee to make.  13 And then I go back to the committee, and  14 I forward to them the feedback from the candidates. The  15 committee can accept these changes and make the changes  16 or reject those changes. And then they provide a final  17 copy.  18 And then I have to write a memo, and then  19 the Dean has to write a memo. So in these memos, we  20 put, "Concur with the committee" or we put "Diverge with  21 the committee" and I can diverge from the Dean's opinion  22 as well.  23 Q. Okay. So when you're doing the third-year  24 review, you really only have two years of information to  25 work with?</p>
<p style="text-align: right;">95</p> <p>1 technically late. It has to happen at a particular  2 time.  3 Q. Okay. And I guess this is unique to this  4 particular situation. When you go up for tenure in your  5 sixth year, you actually apply for -- you start applying  6 for it in the fifth year, right?  7 A. So you -- okay. I mean, that math, I'm always  8 confused on. Okay? But, basically, you need to look at  9 my letters; and they would -- and I apologize because, I  10 mean, it's been a while since I did this. Okay?  11 Q. Well, don't worry about it.  12 A. Okay.  13 Q. Don't worry about it. Okay. I think we'll  14 figure it out.  15 So let me ask it this way: The  16 third-year review, does it occur during the third year  17 or after the third year?  18 A. My recollection is that it occurs during the  19 third year. I may be off, again. Okay? But that's my  20 recollection.  21 Q. In the spring semester or --  22 A. We normally start these. So whenever there's  23 a review, there is a deadline; and I vaguely remember  24 that deadline to be October 1st -- and if I'm off, I'm  25 probably off by, you know, a few weeks, not months --</p>	<p style="text-align: right;">97</p> <p>1 A. Yes. If my recollection is correct that it  2 happens during the third year, then, yes, you have two  3 years of documentation to work with.  4 Q. Okay. And if the person was hired with  5 teaching experience of another institution, would they  6 include that information as well, as part of a third-  7 year review?  8 A. The teaching evaluation at UT is pretty clear  9 that it is about UT, what you did at UT, not what you  10 did in other institutions. So the candidate could  11 include information about how they did in -- at another  12 institution. The Committee doesn't have -- is not  13 obligated to look at that at all.  14 Q. Okay. And for -- do you recall doing  15 Dr. Nikolova's third-year review?  16 A. Yes, I do.  17 Q. Okay. Well, I guess before I ask that  18 question: What is -- you kind of went over a little bit  19 of the third-year review process. Is there always a  20 committee involved in the third-year review?  21 A. Yes, there's always a committee of peers  22 involved in the third-year review.  23 Q. Okay. Do the committee of peers interact with  24 the faculty member; or do they just take the information  25 from the dossier and speak with you about it, as the</p>



<p>98</p> <p>1 Chair, that is?</p> <p>2 A. They take the information from the dossier;</p> <p>3 and any question they have, they have to funnel it</p> <p>4 through me.</p> <p>5 Q. Okay. So you're the liaison between the</p> <p>6 committee and the faculty member?</p> <p>7 A. That's correct.</p> <p>8 Q. Okay. And were there any changes in that</p> <p>9 third-year review between -- prior to Dr. Nikolova going</p> <p>10 through the third-year review with you?</p> <p>11 A. Changes to the process, you mean?</p> <p>12 Q. Yes, sir.</p> <p>13 A. I don't recall that there were any changes to</p> <p>14 the process.</p> <p>15 Q. Okay. So there's a Professor Tiwari, and he</p> <p>16 went through a third-year review. Did he go through the</p> <p>17 third-year review the year before Dr. Nikolova?</p> <p>18 A. I don't remember when he was promoted or when</p> <p>19 he went through his third-year review. If you look at</p> <p>20 when he started, you can figure out what his third-year</p> <p>21 review -- when his third-year review would have</p> <p>22 occurred.</p> <p>23 Q. Okay. And so is it your testimony that you</p> <p>24 did the third-year review with Professor Tiwari the same</p> <p>25 way, the same process that you used for Dr. Nikolova, or</p>	<p>100</p> <p>1 Commitment; and, in fact, it is standard practice for us</p> <p>2 to put recently hired assistant professors on the</p> <p>3 Faculty Recruiting Committee because, A, it gets them</p> <p>4 to know other faculty members; B, they're putting in a</p> <p>5 fresh pair of eyes; and they help us recruit additional</p> <p>6 people.</p> <p>7 So that's something that we've done for</p> <p>8 everyone; and I don't remember anybody coming back and</p> <p>9 saying, "Oh, this has impacted me," or that that has</p> <p>10 come up during promotion and tenure cases. And they</p> <p>11 serve one year; they may serve a couple of years. They</p> <p>12 don't serve six years on the Recruiting Committee.</p> <p>13 Q. (BY MR. NOTZON) Okay. And so you're saying</p> <p>14 every new hire assistant professor spends at least one</p> <p>15 year on the committee?</p> <p>16 A. I am not saying every. I am saying that it's</p> <p>17 standard practice to do this. Some people might say, "I</p> <p>18 don't want to serve." And sometimes we recruit six</p> <p>19 faculty members. We are not going to put all six of</p> <p>20 them on the Faculty Recruiting Committee. There is a</p> <p>21 very limited number of slots for assistant professors.</p> <p>22 So some people may not have served at all. If we hired</p> <p>23 five and then the next year six, et cetera, you can</p> <p>24 imagine that some would not serve at all.</p> <p>25 Q. Okay. And I believe the records reflect that</p>
<p>99</p> <p>1 a different process?</p> <p>2 A. It should be exactly the same process.</p> <p>3 Q. Okay. And that answer would be the same if I</p> <p>4 asked you about any other faculty member while you were</p> <p>5 the Chair?</p> <p>6 A. That's correct.</p> <p>7 Q. Okay. Do you recall Dr. Nikolova's service</p> <p>8 for the department?</p> <p>9 A. I recall that I appointed her at least once to</p> <p>10 our Faculty Recruiting Committee and I also recall that</p> <p>11 my colleagues were complaining that she wasn't attending</p> <p>12 at least some of the meetings and she was not</p> <p>13 responsive. And that complaint came up again during the</p> <p>14 promotion process.</p> <p>15 Q. Okay. Would you say that the faculty hiring</p> <p>16 committee is one of the more time intensive committees</p> <p>17 in the department?</p> <p>18 A. That's correct.</p> <p>19 Q. And so putting someone on the committee that</p> <p>20 is in their tenure probation would be impactful of their</p> <p>21 potential productivity compared to a lesser-demanding</p> <p>22 committee; is that right?</p> <p>23 MS. HILTON: Objection, form.</p> <p>24 A. It is standard practice for us to put</p> <p>25 assistant professors on the Faculty Recruiting</p>	<p>101</p> <p>1 Dr. Nikolova served two years in a row on the faculty</p> <p>2 hiring committee for the ECE. Does that sound familiar?</p> <p>3 A. Again, I don't recall; but that's sort of</p> <p>4 within the standard practice. If you serve one year, I</p> <p>5 typically will ask you to serve another year. So</p> <p>6 similar to the Promotion and Tenure Committee, where,</p> <p>7 you know, we would keep you for a couple of years on the</p> <p>8 committee.</p> <p>9 Q. Okay. And does an assistant professor have</p> <p>10 the right to turn that down?</p> <p>11 A. Yes. I don't force anybody to serve on</p> <p>12 anything. I mean, I'd come to you and I'd say, "Would</p> <p>13 you like to serve on this committee?" And people will</p> <p>14 say "yes" or "no." If it's no, it's no.</p> <p>15 Q. As an assistant professor, you understand the</p> <p>16 concern about saying no to your Chair when you're going</p> <p>17 to go up for tenure --</p> <p>18 A. Sorry for interrupting you.</p> <p>19 The first thing I say to my assistant</p> <p>20 professors is, "Be vocal. Anything you say, it's -- you</p> <p>21 know, I'll take it. Nothing will be used against you."</p> <p>22 And we haven't used that against anyone. And if this</p> <p>23 was a problem, then every single assistant professor,</p> <p>24 you know, would have knocked on my door and said, "I</p> <p>25 want to serve on this committee." And I can guarantee</p>

<p style="text-align: right;">102</p> <p>1 you that I would have had an easier time filling many 2 committees if people really felt that if they said "no," 3 that I would take it against them.</p> <p>4 Q. Okay. Do you understand that Dr. Nikolova was 5 also asked to be on the ME, the mechanical engineering, 6 hiring committee?</p> <p>7 A. She -- so professors in our department and 8 other departments are asked to serve on committees in 9 other departments. This is solely at her discretion. 10 Being asked doesn't mean forced. So if she was asked 11 and she said "yes," she knew what she was doing. She 12 knew how she was spending her time; and, therefore, it's 13 her decision and not anyone's decision.</p> <p>14 Q. Would you say that three years on a hiring 15 committee for an assistant professor during tenure track 16 is a laudable amount of service?</p> <p>17 A. I don't know what the workload is when you 18 serve on the committee of another department. I know 19 the workload in our department, because we have one 20 committee for all areas in the department, not one per 21 area. So I don't know what she served on.</p> <p>22 But, normally, in my letters of 23 promotion, if you have example of these letters, you 24 will see that in the service section, I will say that 25 "X" served our Recruiting Committee; and this is a</p>	<p style="text-align: right;">104</p> <p>1 complaint or two, that you recall?</p> <p>2 A. What I recall is during the promotion and 3 tenure discussion, that topic came up that people were 4 concerned about her lack of engagement with the 5 department; and that, also, I vaguely remember, came up 6 in the third-year review, which, normally, the 7 third-year review, again, in the same spirit of people 8 supporting their peers, is usually written in such a way 9 that it supports the candidate when she or he goes up 10 for promotion. So the fact that it surfaced in that 11 document sort of sends a signal that, you know, maybe 12 she can do more, better -- be more engaged.</p> <p>13 Q. Do you know if she was told these things at 14 the time she was on the committee?</p> <p>15 A. I am pretty sure that -- well, not -- so I 16 don't know what my colleagues told her or did not tell 17 her. I personally didn't go back to her and saying, 18 "Look" -- or I don't recall going back to her; maybe I 19 did it -- and telling her: You need to do this or that.</p> <p>20 But my recollection is that my colleagues 21 would have spoken with her and tried to engage with her; 22 and when forming other committees, my recollection is 23 some of my colleagues would come and say, "We wouldn't 24 want to have her because she would be counted as a 25 member of the committee, but she would not be doing the</p>
<p style="text-align: right;">103</p> <p>1 committee that requires a lot of time and, you know, 2 therefore, I'm very grateful and, as you put it, it's a 3 laudable service to the department.</p> <p>4 Q. Okay. Do you have any other recollection of 5 Dr. Nikolova's service during her tenure track period at 6 UT?</p> <p>7 A. I don't, which doesn't mean that she hasn't 8 served on other committees or wasn't asked to do 9 something for maybe the centers to which she belonged.</p> <p>10 Q. Okay. Would you testify that, as far as 11 service goes, that Dr. Nikolova exceeded the 12 requirements for tenure at UT?</p> <p>13 A. You don't get tenure on service.</p> <p>14 Q. No, I'm saying that criteria.</p> <p>15 A. Well, that criteria, there's no real criteria 16 for that, meaning, that, you know, if you did light 17 service, that might be fine in a department. So, I 18 mean, I really can't -- you know, I really can't -- I 19 can't pass a professional judgment on what you're asking 20 me to do. I mean, she served on a committee; and I was 21 grateful that she served on that committee. Some of my 22 colleagues weren't happy with her service. That's the 23 only thing I can tell.</p> <p>24 Q. And they weren't happy with her service for 25 the entire time she was there; or just, they had one</p>	<p style="text-align: right;">105</p> <p>1 work."</p> <p>2 Q. And do you recall who was complaining about 3 her work on the committee?</p> <p>4 A. I can't give you names, but my recollection is 5 it was more than one person.</p> <p>6 Q. You can't give me names because you would 7 prefer not to or --</p> <p>8 A. No. If I remembered a particular name, I 9 would have given it to you, like, you know, earlier 10 about Ananth. If I -- had I not seen that e-mail 11 recently, I probably wouldn't have remembered that.</p> <p>12 Q. Okay. Do you remember what the vote was of 13 the Budget Council vote, Step 1 vote, of whether or not 14 Dr. Nikolova should go up for tenure?</p> <p>15 A. Obviously not. This was a few years ago, and 16 then there's a lot of votes. So, no, I don't remember.</p> <p>17 Q. Okay. Do you remember -- well, I'll tell you 18 that the record shows that it was 32 to 1, with 2 19 abstentions and, I think, 2 unqualifieds. Do you 20 remember who the one "no" vote was?</p> <p>21 A. You must be confusing votes because I don't 22 recall that in that first vote, we report- --</p> <p>23 Q. No, no, Number 2. Two.</p> <p>24 A. Second vote?</p> <p>25 Q. Second vote.</p>

<p style="text-align: right;">106</p> <p>1 A. Oh, okay. Okay. So can you repeat? Sorry.  2 I thought you were talking about the first vote. Okay.  3 Sorry.  4 Q. That's okay. 32, 1, 2, 2.  5 A. Okay.  6 Q. Do you know who the one "no" vote was?  7 A. No, there's no way for me to know who the one  8 no vote is, as you also can't tell me who voted for  9 President X versus Candidate Y, right? So it's a  10 anonymous vote is another way of saying -- a long way of  11 saying it's an anonymous vote.  12 Q. Oh, you believe you're not allowed to tell me  13 who that is?  14 A. No, I cannot find out who that is.  15 Q. Oh, you wouldn't even know who it was when it  16 occurred because you weren't there for the vote?  17 A. The vote is an electronic vote, the same way  18 you'd vote for a president.  19 Q. Okay.  20 A. I know that you voted; but I don't know what  21 you voted, right? It's the same thing. We go to a lot  22 of lengths to make sure that however you vote, no one is  23 going to be able to find out that vote.  24 Q. Now I understand. Thank you.  25 So nobody knows what anybody's vote is</p>	<p style="text-align: right;">108</p> <p>1 And she said, "No, from now on, you have  2 to allow that person to vote."  3 So sometime, '17, '18, it was the first  4 time that the person on the P&amp;T Committee was allowed to  5 vote in our regular Budget Council votes.  6 Q. Okay. So there -- so that means that that  7 person would vote twice?  8 A. Yes.  9 Q. Okay. Gotcha.  10 Do you recall that Dr. Nikolova had told  11 you that she was being recruited by Duke University for  12 a chaired position in the Fall of 2015?  13 A. I don't recall what happened in '15; or at any  14 point in time, I don't recall that precise conversation.  15 However, when I looked at the letter that I wrote for  16 her, in the last few days, I see that at the end of my  17 paragraph, there is some statement, if I recall  18 correctly, that alludes to that.  19 Q. Okay. So the answer to my question is you  20 don't recall that happening?  21 A. I don't recall it happening in '15.  22 Q. Okay. Do you recall the conversation about a  23 chaired position at Duke?  24 A. I don't -- no, I don't recall any of these  25 details. So the only thing I recall is, when I read the</p>
<p style="text-align: right;">107</p> <p>1 except in your letter you wrote that you and other  2 professor were the disqualified people?  3 A. Yes, because I vote through my letter. So I  4 can't vote twice. And the other person was Mark Smith,  5 who served on the Presidential Committee; and he cannot  6 vote twice.  7 Q. Okay. Wasn't there a professor that was also  8 on the P&amp;T Committee? He would be -- he would be  9 disqualified too, right?  10 A. So up to some point -- and I don't remember  11 what that some point was -- '16, '17 -- sometime during  12 Dean Wood's tenure, our standard practice within the  13 department was that if you served on the P&amp;T Committee,  14 we asked you not to vote on the case at the department  15 level so that you don't vote twice on the case.  16 One year -- and I can't remember what  17 year it was -- '16, '17 -- that was picked up by the  18 Dean; and she asked me, "Why in your letter are you  19 saying that" -- at the time Mark Smith wasn't there, or  20 maybe he was there.  21 And I said, "We aren't able to vote."  22 She said, "Who's the third person" or  23 "Who's the second person?"  24 And I said, "The second person is  25 actually serving on the P&amp;T Committee.</p>	<p style="text-align: right;">109</p> <p>1 letter, yeah, that's the only thing I recall.  2 Q. Okay. I didn't ask about that. I just asked  3 my question. So those details you don't recall?  4 A. I don't recall the details.  5 Q. Okay. So in reviewing the -- your letter  6 following the Budget Council vote, your letter to the  7 Dean, would you consider that -- well, let me back up.  8 Do you consider yourself to have been a  9 strong supporter of Dr. Nikolova's tenure application in  10 the '18-'19 year?  11 A. I consider myself as someone who wanted to  12 make sure that Dr. Nikolova stays as a productive member  13 of the department; and so the way I wrote my letter, my  14 communication with various people, was to say I would  15 like to see her in the department, which essentially  16 means I would like to see her promoted.  17 Q. So would that answer be "no" to my question or  18 "yes"?  19 A. The answer to your question is yes, I was a  20 proponent of having her promoted.  21 Q. My question was -- used the word "strong."  22 Were you a strong supporter?  23 A. What -- you know, your "strong" may not be my  24 "strong," so I can't answer that question.  25 Q. Okay. Maybe let me put it in words that you</p>

<p>110</p> <p>1 use. Were you a close-to-the-bar supporter of 2 Dr. Nikolova's, or were you a farther-above-the-bar 3 supporter of Dr. Nikolova's? 4 A. I think I answered this question earlier in 5 the morning where I said: My assessment was that she 6 was close to the bar. Whether she was slightly below 7 the bar or slightly above the bar, you know, I didn't 8 spend too much time on exactly where she was. I know 9 she was closest to the bar than any other candidate that 10 went up for promotion under my tenure. However, because 11 I knew what she was capable of delivering, I wanted to 12 give her the chance to shine again; and I wanted her to 13 stay in the department. And I was reasonably confident 14 that she was going to shine again. It was a bet. Some 15 people, you know, agreed with me; some didn't. 16 Q. Let's go ahead and look at your letter, and 17 it -- I'm going to put it in the chat here. And it was 18 previously marked as Exhibit 6. Do you see it there? 19 A. No, I don't see anything in the chat. 20 MR. NOTZON: Oh, dang it. 21 MR. DOWER: Robert, I think you may have 22 accidentally sent it to Bob again. 23 MR. NOTZON: I did it again. There we 24 go. 25 Q (BY MR. NOTZON) Do you see it now?</p>	<p>112</p> <p>1 Q. Okay. There would be an e-mail trail about 2 that? 3 A. If she did provide feedback, yes, there would 4 be an e-mail chain. 5 Q. Okay. And no one else contributed to the 6 letter? 7 A. I also said that Jilda, the person who helps 8 with our promotion cases, would have read the letter and 9 corrected typos, et cetera. 10 Q. I should have said no one else other than 11 you've already testified to -- 12 A. Yeah. 13 Q. -- assisted with the letter; that's right? 14 A. That's correct. 15 Q. Okay. And in looking at this letter, if you 16 could, point out the items where -- and I'm going to ask 17 you two ways -- the items that let you -- that let us 18 know that you believe that she is close to or below the 19 bar; and then I'm going to ask you what you thought were 20 her above-the-bar items. 21 A. You have to parse the letter. And so the 22 second paragraph, it talks about an emerging pioneer; it 23 doesn't say she's a star. You know, some of the 24 comments at the end about why professors were concerned 25 about her. If you go and look at the section about</p>
<p>111</p> <p>1 A. Yeah. 2 Q. Okay. Let me know when you're ready. 3 A. I opened it, so I am ready. 4 Q. All right. So this is your October 29th, 2018 5 letter. Did you write this letter? 6 A. Yes, I did. 7 Q. Did anyone else contribute to the language in 8 this letter? 9 A. No one else contributed to the language in the 10 letter. I did show the letter to Dr. Nikolova before 11 sending it up; and I also showed it to the person that 12 helps us with promotions, Jilda, who would have 13 corrected typos and, you know, words here and there. 14 Q. Okay. And did Dr. Nikolova provide any 15 requested changes? 16 A. I don't remember what she may have provided; 17 but, normally, candidates will correct some of my 18 statements. They may pick up and correct numbers. So, 19 normally, I do get feedback from them. They don't just 20 read it, and that's it. 21 Q. Okay. But you just don't remember what 22 Dr. Nikolova's response or contribution might have been? 23 A. No. I would have to go back and -- you know, 24 go and get the document that she sent me back or her 25 e-mail or something.</p>	<p>113</p> <p>1 teaching, you will see me talk about some of the 2 comments of the students. And something that would be 3 picked immediately by every one is the fact that I 4 mentioned that some of the same comments that undergrads 5 made about her teaching were also made about -- by 6 graduate students, which is highly, highly unusual. So 7 these are some of the things -- 8 Q. Excuse me. Could you identify specifically 9 where you're talking about? 10 A. So if I -- if you look at the bottom of 11 page 2, you will see that, "It's also interesting to 12 note that student comments in the two courses are 13 somewhat similar to the comments that she received in 14 EE360C, with many students praising her energy level and 15 enthusiasm and others complaining about boring classes 16 and solutions to homework not being provided in a timely 17 manner." So that would send a message. 18 And in the Presidential Committee, there 19 is one person that -- the Dean of Undergraduate Affairs, 20 whose job is to read every comment by every single 21 student who's taken a class of someone going up for 22 promotion; and he would have provided further 23 information about that to the Committee. 24 And I would also mention that even though 25 my letter, and maybe the Dean's letter, do mention</p>

<p>114</p> <p>1 course instruction survey numbers, really, what matters</p> <p>2 in the Presidential Committee, to my understanding,</p> <p>3 because this person makes sure that happens, is the</p> <p>4 comments of the students. So the fact -- it's not so</p> <p>5 much what her numbers were, but the fact that there are</p> <p>6 comments saying that she is boring or her whiteboard</p> <p>7 work isn't acceptable or that she's late turning on</p> <p>8 solutions, et cetera. There are many, many more</p> <p>9 comments if you dig through them. Those are the ones</p> <p>10 that will raise, also, some red flags in the</p> <p>11 Presidential Committee but also to the Dean and</p> <p>12 Promotion &amp; Tenure Committee, et cetera.</p> <p>13 And these are things that, because at a</p> <p>14 departmental level we were supportive, I had to mention</p> <p>15 them; but I did not highlight them the way that others</p> <p>16 may have.</p> <p>17 Also, if you look at my research</p> <p>18 statement, you'll see that I spent a lot of time on her</p> <p>19 earlier work and not as much time on the more recent</p> <p>20 work; and if you look at -- that's my recollection</p> <p>21 because I haven't looked at the letters recently -- is</p> <p>22 that the letter writers for her also emphasize the work</p> <p>23 that we hired her for much more than the work that she</p> <p>24 did while at UT. And then --</p> <p>25 Q. You --</p>	<p>116</p> <p>1 credibility issue. You know, if I write, "I strongly</p> <p>2 endorse this case" and the case is viewed as a weak</p> <p>3 case, then the next time I write, "I strongly, you know,</p> <p>4 endorse this promotion," you know, people may question</p> <p>5 the validity of my judgment. And so that's why I kept</p> <p>6 thinking about it for a time; but in the end, I was</p> <p>7 willing to take the risk.</p> <p>8 Q. Okay. And you skipped from teaching, down --</p> <p>9 or you said -- I guess you said a few things about the</p> <p>10 research -- down to the bottom. Is there anything else</p> <p>11 in the letter that you haven't identified that --</p> <p>12 A. Yeah, I'd have to take and read the whole</p> <p>13 letter to pick up on things; but those are the ones</p> <p>14 that, you know, normally, if I were reading the letter,</p> <p>15 I would read the second paragraph carefully.</p> <p>16 Normally, I would read the third-year</p> <p>17 review; but in this particular case, it was sort of</p> <p>18 immaterial. And I basically copied text from the</p> <p>19 third-year review.</p> <p>20 The teaching load is standard boilerplate</p> <p>21 language, so there's nothing that -- I mean, except when</p> <p>22 it talks about Evdokia in particular, so it's not</p> <p>23 something I would pay attention to.</p> <p>24 Then in the teaching, I would be looking</p> <p>25 for the student comments; and in particular how she's</p>
<p>115</p> <p>1 A. And something that you don't know and nobody</p> <p>2 knows is at the very end, you know, when I was writing</p> <p>3 the last statement, I had to write, you know, my last</p> <p>4 sentence, I spent hours and days deciding whether to</p> <p>5 include the word, "I strongly endorse her promotion" or</p> <p>6 not. And the reason I included the word "strongly" is</p> <p>7 because I had heard from the then dean, Fenves, that</p> <p>8 without that word, you're essentially dooming the case.</p> <p>9 So had I not put the word "strongly,"</p> <p>10 essentially I knew that we were going to lose Evdokia.</p> <p>11 So even though it took me a lot of time to put that word</p> <p>12 in the letter, in the end, I put it in there because I</p> <p>13 knew that without that word, I would lose my case.</p> <p>14 Q. And that's -- you're saying that's advice that</p> <p>15 the prior dean, Fenves, had told you some years back?</p> <p>16 A. That's correct.</p> <p>17 Q. Okay. Kind of a word-to-the-wise thing?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. So you were on the fence about it, and</p> <p>20 then you eventually decided to go with it?</p> <p>21 A. I wasn't on the fence. I mean, I wanted her.</p> <p>22 I mean, you know, I've said repeatedly today that I</p> <p>23 believed in her; and I wanted her in the department.</p> <p>24 But I was on the fence on whether -- how to write this,</p> <p>25 right? I mean, because part of it is there is also a</p>	<p>117</p> <p>1 doing in one versus the other, undergraduate versus</p> <p>2 graduate.</p> <p>3 And in the research, I would be looking</p> <p>4 at evidence that --</p> <p>5 Q. Dr. Tewfik, let me interrupt you. Let's go</p> <p>6 ahead and take a short break. It's been about an hour</p> <p>7 that we've been going. Go ahead and read the letter.</p> <p>8 And I'm going to ask you to finish your answer to my</p> <p>9 question of, "What in the letter identifies her</p> <p>10 below-the-bar issues?" And then I'm going to follow it</p> <p>11 with, "What in the letter identifies the above-the-bar</p> <p>12 issues?" So, that way, you'll have a chance to review</p> <p>13 the letter in detail. Is that okay?</p> <p>14 A. Yeah, that's fine.</p> <p>15 MR. NOTZON: Okay. Let's take a break.</p> <p>16 THE REPORTER: We're going off the record</p> <p>17 at 2:13 p.m.</p> <p>18 (Off the record from 2:13 to 2:30 p.m.)</p> <p>19 THE REPORTER: We're going back on the</p> <p>20 record at 2:30 p.m.</p> <p>21 Q (BY MR. NOTZON) Okay. Professor Tewfik,</p> <p>22 could you -- are you ready to answer the -- finish</p> <p>23 answering the question on: What in your letter</p> <p>24 identifies the below-the-bar issues for Dr. Nikolova?</p> <p>25 A. Okay. So, first off, because I don't know</p>

<p>118</p> <p>1 whether, I mean, everybody's on the same page here, my 2 letter is written to support a promotion case. So I 3 didn't write the letter to repeal the promotion case. 4 At the same time, my obligation is to present the facts. 5 So what I'm going to tell you is if I 6 were reading this letter, what are red flags that would 7 pop up and I would want to know more and pay more 8 attention to. And, you know, then we can go into what 9 would come across as strong points or strong 10 characteristics of the case. Okay?</p> <p>11 Q. Okay. So just to clarify, so your answer is 12 nothing in the letter, to the uneducated, would identify 13 as subpar performance?</p> <p>14 A. Yes. If I wanted -- I am not trying -- I 15 mean, there is no -- you know, this is not a secret 16 message that I'm trying to pass through the letter. 17 Okay? I am stating in the letter -- the letter is 18 written because I wanted to have Professor Nikolova 19 promoted.</p> <p>20 At the same time it is my obligation -- 21 and, in fact, this is the first thing that happened, 22 like, within months from joining UT and meeting with the 23 President, he told me, "Your letters cannot be rah, rah, 24 rah letters. You have to present -- they have to be 25 factual. They have to present the weaknesses and the</p>	<p>120</p> <p>1 knew that that third-year review was done at the same 2 time as, essentially, the promotion case. 3 They would have picked also on that fact 4 that the last sentence says, "Post-tenure, it would be 5 good for her to become more active both in leadership 6 activities internally and externally." That sends a 7 clear message that she's not there yet in terms of what 8 she should be doing there. 9 Okay. Then, in the teaching section, my 10 first sentence says, "Evdokia's instructor course 11 evaluation scores don't paint a complete picture of her 12 passion for teaching." Someone who is an expert would 13 read this and know that we have a problem here. This is 14 not going to be a strong teaching case. A strong 15 teaching case would say, "She's one of our best teachers 16 in the department," or something along those lines and 17 would have a lot of praise from the get-go. Okay? 18 Here, I'm starting by saying, "Don't just 19 get stuck on these scores because they don't paint a 20 complete picture." I go on to say that the course, the 21 undergraduate course, that she's teaching is a very 22 tough course, so, you know, to try to balance the 23 impression that you might get if you just looked at the 24 scores. 25 But then if you look at the last sentence</p>
<p>119</p> <p>1 strengths, and then we can have a discussion." Okay? 2 So that's what that letter is meant to do. Right? 3 So if someone in -- you know, some 4 professional is reading the letter, then, as they go 5 through the letter, when they see it's an emerging 6 pioneer and if they've seen my letters for other 7 candidates, that would tell them that someone hasn't 8 reached where we want them to reach; but they're on 9 their way to getting there. Okay? So it is saying I 10 believe in the potential of that particular person. 11 Now, it's up to them to agree or disagree with that. 12 In the third-year review, and knowing the 13 type of third-year reviews that Committees write and 14 knowing that these third-year reviews tend to be 15 supportive of the people that we're putting up, that we 16 would be putting up later for promotion, that the 17 language is very carefully selected, they would not have 18 known that this particular third-year review actually 19 went through a revision to just make sure that, you 20 know, it's as nice as possible; but they would have 21 picked on a few things in the first paragraph of that 22 third review. 23 So for her promotion case to be as strong 24 as possible, they would have picked on the issue of 25 slight increase of publication output. Okay? And they</p>	<p>121</p> <p>1 of that paragraph, then you see that she's getting some 2 praise, but that she's getting also sort of redirect 3 flags. For someone on the Promotion Committee -- on the 4 Presidential Committee, the Dean of Undergraduate 5 Studies would pay a lot of attention to that; and he 6 probably would have gone and looked at other exemplars 7 of that, you know, "We wish she had more office hours," 8 the lectures not being exciting, the ineffective 9 teaching of the teaching assistants, her whiteboard 10 writing, all these things would mean: Okay. Fine. 11 You're telling us not to look at her scores. We're 12 willing to believe you, but there seems to be other 13 issues. And you'll have to convince us that -- why are 14 you disregarding these other issues. Okay? 15 So to convince them why disregard these, 16 I had a paragraph that talked about the changes to 17 EE360C, that they were picked up by other professors. 18 Then I go to graduate courses, which tend 19 to have higher scores than the undergraduate course; in 20 this case, not really. They're about in the same range. 21 And then the end of that paragraph, 22 again, mentions the student comments; and you'll see the 23 praise about her energy level and enthusiasm. But then 24 you'll see the comments about boring classes and 25 solutions to homework not being provided in a timely</p>



<p>122</p> <p>1 manner, which, for someone who's looking at the case, 2 would mean: Okay. Well, we still have problems here 3 because it seems to be a professor that isn't paying 4 attention to the needs of the students; and your first 5 and foremost duty, you're hired to teach students. So, 6 you know, are you taking this seriously? Basically, 7 this is the question that would arise from that. 8 Now, of course, my letter isn't the only 9 evidence they have. Again, they have the firsthand 10 knowledge of the student comments. So I tried to 11 balance this again by saying: Okay. You know, give me 12 the benefit -- or give her the benefit of the doubt 13 because she's done other things. She worked on the 14 Edison Lecture, et cetera. 15 On the research side of things, the 16 second paragraph talks about her work; but for someone 17 who's paying attention to what she's published when, 18 they immediately pick up the fact that this paragraph 19 and the next paragraph are essentially talking about the 20 work that she was doing early in career, in particular, 21 coming to UT and her first, maybe, year or two at UT. 22 And they would have picked that up, also, in the 23 recommendation letters that we got because the same 24 thing was there. So both of those, for some, I mean, it 25 would be great. Some people would say, "Yeah, this is</p>	<p>124</p> <p>1 changed." It doesn't say any of that. 2 Whereas, if you look at other letters, 3 you'll find them saying, "This is the first time that 4 this result was established." You know, "This was the 5 first time that this was done." You know, "This was 6 something that no one knew about before." "This has 7 changed the work that the other professors are doing." 8 So all of these things -- so on the 9 research side of things, there is positive information; 10 but, again, there are potential red flags. I mean, in 11 my mind, if I were reading the letter and I wasn't the 12 Department Chair, maybe less then on the teaching side; 13 but there are issues there. 14 Then if I go down to Service, you know, I 15 had to say that she's provided reasonable service to the 16 department; and I had to acknowledge the fact that my 17 colleagues did say that her involvement was lower than 18 average. And, again, to counterbalance that, I put a 19 sentence that said, "Well, it's not a concern of mine 20 because of her personal circumstances." Okay? So I'm 21 not -- yes, I realize that, you know, this is not the 22 strongest service; but I'm just not concerned about it. 23 Okay? 24 So that's essentially how that letter 25 would be viewed by someone in the know. They would read</p>
<p>123</p> <p>1 great. You know, she's a great researcher. She's had 2 an impact. She started something new." And they would 3 agree with me that she has the potential. 4 Others might get stuck on the fact that 5 well, this was her early work and that her later work, 6 which is what's in the next two paragraphs or next three 7 paragraphs, the work on tolls and the work on electric 8 distribution, that -- that is happening but may not have 9 had as much of an impact. 10 Those who look carefully at the letters 11 would also realize that, for example, the toll work, the 12 letters of recommendation that we got, based on our 13 discussions with Evdokia were from people in her field, 14 not people in the field where the work would have an 15 impact. And, in fact, in my discussions with the dean 16 later on -- and she alludes to this -- I think she 17 alludes to this in her letter -- because this is closer 18 to the dean's work -- she's a civil engineer -- she 19 didn't feel that this work was particularly impactful. 20 And then the last paragraph is about the 21 work and efficiency in electric distribution; and you -- 22 at the very end of my paragraph, quoting from one of the 23 reference letters, there is a sentence that says, "Her 24 skills may bring some fundamentally new insights." It 25 doesn't say, "It brought." It doesn't say, "It</p>	<p>125</p> <p>1 the letter. They would pick up the strong points, and 2 they would pick up the weaknesses. And then they would 3 go into the dossier to further dig into the weaknesses 4 and the strengths. 5 Q. Okay. Do you believe you've just answered my 6 question for the strengths as well? 7 A. I do. 8 Q. Okay. On the third-year review portion, is 9 there a reason why you didn't raise the increased 10 publications that she had in '17 and '18 that were at a 11 greater rate than had occurred prior? 12 MS. HILTON: Objection, form. 13 A. I didn't -- I didn't write the third-year 14 review. The Committee wrote the third-year review. So 15 they looked at her publications. They looked at the 16 cumulative rate, and their assessment was that there's a 17 problem there. And, in fact, the first version -- 18 Q. (BY MR. NOTZON) Maybe you're misunderstanding 19 my question. I'm talking about the third-year review 20 portion of your letter, not the third-year review. 21 A. The third-year review portion of my letter 22 reports on the -- that section, in the normal letters, 23 state what the third-year review conclusion was, not my 24 opinion of the third-year review, and that what we did 25 since then. If there was a concern, how we addressed</p>



<p style="text-align: right;">126</p> <p>1 this concern. In this particular case, there was no  2 opportunity for me to say how we addressed this concern  3 because we basically went up for promotion a few months  4 later.  5 Q. Well, you do say, "However, I do note" -- so  6 you provide two sentences of rebuttal to the third-year  7 review?  8 A. Because those two students -- this is not a  9 rebuttal. The third-year review said it would be good  10 to graduate a Ph.D. student; that's an unspoken  11 requirement at UT, which Evdokia was aware of. And to  12 make sure that that third-year review doesn't anchor in  13 people's minds that she doesn't have a Ph.D. student for  14 those who are old school and are tied to that, I had to  15 remind them that she did, in fact, graduate a student.  16 Q. That is an explanation that she took the  17 criticism from third-year review and even though it --  18 A. No, no, no. No, I'm very sorry. This is  19 not -- she did not take the criticism -- you don't  20 graduate a Ph.D. student by just, like this (witness  21 snapping fingers.) Okay? Like, you know, graduate a  22 student -- okay, three months later, we graduate a  23 student. The student had been working towards that, and  24 so her student was on track to graduate. And, in fact,  25 if the student wasn't on track to graduate, we probably</p>	<p style="text-align: right;">128</p> <p>1 that she, in fact, did graduate a Ph.D. student between  2 the third-year review and the tenure application; that  3 she also increased her publications with three  4 conference papers in the interim, correct?  5 A. Correct.  6 Q. Okay. And -- but you didn't put in that she  7 had increased her leadership activities externally, at  8 least, by being asked to return to the Simons Institute  9 as an organizer with tenured professors in a national --  10 internationally renowned conference, correct?  11 MS. HILTON: Objection, form.  12 A. Correct, I didn't write that and --  13 Q. (BY MR. NOTZON) Why not, since that occurred  14 in the Spring of 2018?  15 A. Because you don't get promoted for service.  16 Okay? So the fact that you provided service isn't going  17 to promote you. The two points that I alluded to in  18 that last paragraph are two points that were essential  19 for us being able to push the case forward. So without  20 her graduating a student, a Ph.D. student -- and I  21 wanted to make sure that somebody reading the letter and  22 then anchoring on the third-year review, wouldn't say,  23 "Why is -- why are we looking at this case if she had no  24 Ph.D. student," when, in fact, she had a Ph.D. student.  25 And the statement about the three</p>
<p style="text-align: right;">127</p> <p>1 wouldn't have put her case forward because we knew that  2 we were going to run into this objection. Okay. So  3 this is not her responding to criticism from the  4 third-year review. We were on track for that.  5 Q. Okay. We'll let other people read the  6 sentence, "However, I do note that..." however they're  7 going to take it. Whether you agree that that's a  8 rebuttal or an answer to the advice or criticism in the  9 third-year review, we'll let -- we won't quibble about  10 that. Okay?  11 But let me just ask another question, and  12 let me get the question out. At the bottom of the first  13 paragraph of the Third Year Review section of this  14 letter, Exhibit 2 -- I mean, Exhibit 6 -- it says,  15 "Post-tenure, it would be good for her to become more  16 actively involved in leadership activities internally  17 and externally." Do you see that?  18 A. Yes.  19 Q. Okay. And then before that, it asks about the  20 graduating a Ph.D. student and increasing her  21 publications, right? That's what that section was  22 recommending for her as the results of the third-year  23 review, correct?  24 A. Correct.  25 Q. Okay. And in the next paragraph you identify</p>	<p style="text-align: right;">129</p> <p>1 conference papers is because up to the very last minute  2 before that first vote, we weren't sure whether we would  3 be able to put her case forward to the Budget Council or  4 not. Had these three papers not come through, had they  5 not been accepted during that time, she would have --  6 you know, she would have submitted those papers probably  7 sometime before the third-year review report because of  8 the review cycle. But had these three papers not come  9 through, we mostly would not have gone forward; and, in  10 fact, you have the e-mails, I'm pretty sure. You know  11 that she's reported to me, "Oh, here is a paper that was  12 submitted and accepted."  13 And I said, "Great timing, exception." I  14 didn't put that detail also in the letter.  15 Q. Did you -- is it your testimony that service  16 is not required for a tenure promotion?  17 MS. HILTON: Objection, form.  18 A. No, that's not -- that's not my testimony.  19 Q. I didn't think so. So let me ask a ques- --  20 let me ask: If, in fact, you're responding in the last  21 paragraph -- the second paragraph of the Third Year  22 Review section to specific statements that were made in  23 the third-year review about how she could be better,  24 that you didn't put in how she could be better in  25 response to one of the topics that they have there,</p>

<p style="text-align: right;">130</p> <p>1 which is a criteria for tenure, which is service? Why</p> <p>2 didn't you put that in there?</p> <p>3 MS. HILTON: Objection, form.</p> <p>4 A. Okay. So I didn't put that in there because</p> <p>5 not everything in her CV -- I mean, she talks about this</p> <p>6 in other places; and I didn't feel that this is an</p> <p>7 essential part of the case, so I didn't put it in there.</p> <p>8 Also, that information about the Simons</p> <p>9 Committee is likely something that she shared with -- I</p> <p>10 mean, unless this came -- and I don't -- I don't -- I</p> <p>11 have no recollection of that -- unless this is something</p> <p>12 that came sometime in August or July or June of that</p> <p>13 year, it's something that the Committee likely knew</p> <p>14 about or that she made the Committee aware of; and I'd</p> <p>15 have to go back and look at the e-mails for that.</p> <p>16 Q. Whether she let the Committee know or not,</p> <p>17 it's whether you know or not, right?</p> <p>18 A. No.</p> <p>19 MS. HILTON: Objection, form.</p> <p>20 A. No, that's not true. The Committee has her</p> <p>21 CV. The Committee -- she has -- she submits her</p> <p>22 teaching statement. She submits her research statement.</p> <p>23 She has -- the Committee has all of her reviews, and she</p> <p>24 can submit any statement that she'd like; and when she</p> <p>25 saw -- and when she saw the first version of the</p>	<p style="text-align: right;">132</p> <p>1 commented in other areas of her assessment; but you</p> <p>2 didn't put it in here in response to this call for</p> <p>3 additional leadership activities, did you?</p> <p>4 MS. HILTON: Objection, form.</p> <p>5 A. You are making a number of statements and</p> <p>6 assumptions. You know, you're essentially telling me</p> <p>7 that if she serves on this committee, then that means</p> <p>8 that she is a superstar and needs to be promoted. I</p> <p>9 mean, you're making certain assumptions on the</p> <p>10 importance of that particular piece of information. I</p> <p>11 am telling you that --</p> <p>12 (Simultaneous speakers.)</p> <p>13 Q. (BY MR. NOTZON) Just tell me why you didn't</p> <p>14 put it in.</p> <p>15 A. You are making that assumption. I mean,</p> <p>16 you're telling me this is a prestigious -- I mean, all</p> <p>17 that stuff that you wrote, right?</p> <p>18 Q. No, I'm asking you --</p> <p>19 (Simultaneous speakers.)</p> <p>20 Q. I'm reading from -- I'm reading from your</p> <p>21 Budget Council's assessment.</p> <p>22 A. My Budget Council assessment, this is other</p> <p>23 people's assessment. So my -- my professional judgment,</p> <p>24 as I was writing this letter, is that what is important,</p> <p>25 the information that, in my professional judgment, is</p>
<p style="text-align: right;">131</p> <p>1 Committee report and was able to provide feedback, she</p> <p>2 would have provided all of the information to help the</p> <p>3 Committee write something that's more favorable to her.</p> <p>4 Q. And you're talking about this Budget Council?</p> <p>5 A. I am talking about the Committee that wrote</p> <p>6 that third-year review.</p> <p>7 Q. Okay. I'm not talking about the third-year</p> <p>8 review. I'm talking about the things that have happened</p> <p>9 since the third-year review that are relevant to her</p> <p>10 promotion to tenure application, which you include in</p> <p>11 the second paragraph of your letter in the Third Year</p> <p>12 Review section. That's what I'm referring to.</p> <p>13 A. You are --</p> <p>14 Q. You put in -- the points that you put in that</p> <p>15 second paragraph are not in her third-year review.</p> <p>16 That's information that was obtained since that</p> <p>17 third-year review was completed, correct?</p> <p>18 A. That is correct. So --</p> <p>19 Q. No, no, please answer one question at a time.</p> <p>20 And so you know that she was a part of</p> <p>21 the Simons Institute in the Spring of 2018 and that she</p> <p>22 was an organizer. She was invited to be an organizer</p> <p>23 and not just a participant, and this is -- she was</p> <p>24 called back. It is a very prestigious and competitive</p> <p>25 event, and it is a high-profile event. And it's</p>	<p style="text-align: right;">133</p> <p>1 going to be important for her promotion and to make her</p> <p>2 case the strongest was to say that: In fact,</p> <p>3 remember -- look at her dossier -- she has graduated a</p> <p>4 Ph.D. student and that she has published a few more</p> <p>5 papers. Okay? That's my professional judgment. I</p> <p>6 mean, if you want to question my professional judgment,</p> <p>7 it's up to you.</p> <p>8 Q. Well, I guess that's your answer to my</p> <p>9 question is: The reason you didn't put it in there is</p> <p>10 because, in your professional judgment, it was not</p> <p>11 helpful?</p> <p>12 A. Not it was not helpful; it was not necessary.</p> <p>13 Q. Okay. It wouldn't have helped her be</p> <p>14 considered for tenure?</p> <p>15 A. It wouldn't have changed a decision, anyone's</p> <p>16 decision on whether she should get tenure or not tenure.</p> <p>17 The other two points would have changed.</p> <p>18 If somebody was for -- if somebody was: Okay. Is she</p> <p>19 above the bar or below the bar? That would have pushed</p> <p>20 her below the bar.</p> <p>21 Q. And that's because you have a feel for what</p> <p>22 the P&amp;T Committee's going to do, what Dean Wood's going</p> <p>23 to do, what the President's Committee's going to do, and</p> <p>24 what the President's going to do from your past</p> <p>25 experience; is that right?</p>

<p>134</p> <p>1 MS. HILTON: Objection, form.</p> <p>2 A. It is because I have a feel for that and I</p> <p>3 have a feel and I heard my colleagues in the discussions</p> <p>4 with the Budget Council.</p> <p>5 Q. Wait. Wait. Hold on. No. The Budget</p> <p>6 Council would have no role to play in the decision</p> <p>7 making above because that's what this letter's for.</p> <p>8 This letter's not going to influence the Budget Council,</p> <p>9 correct?</p> <p>10 A. It doesn't influence the Budget Council; but</p> <p>11 having heard --</p> <p>12 (Simultaneous speakers.)</p> <p>13 A. -- but having heard what the Budget Council</p> <p>14 people are saying, I know what's important for a</p> <p>15 Promotion and Tenure case. I know that the Budget</p> <p>16 Council didn't spend a ton of time on whether she served</p> <p>17 on the Simons Institute or not; but I know they spent</p> <p>18 time on the publications and I know that in previous</p> <p>19 cases if you didn't have a Ph.D. student, that</p> <p>20 essentially torpedoed your case. And --</p> <p>21 (Simultaneous speakers.)</p> <p>22 Q. Let me clarify. Are you saying that the</p> <p>23 Budget Council's input into your decision of whether or</p> <p>24 not to put the Simons Institute information in that</p> <p>25 paragraph is that they were also operating with their</p>	<p>136</p> <p>1 clarify your statement.</p> <p>2 A. I am clarifying my statement. Each of us has</p> <p>3 the duty of issuing a professional judgment on whether a</p> <p>4 person "X" is -- should be promoted or not. When we</p> <p>5 make that professional judgment, we emphasize certain</p> <p>6 pieces of information and other pieces of information we</p> <p>7 take into consideration and we don't emphasize them.</p> <p>8 When I wrote that statement, I emphasized</p> <p>9 the pieces of information that, in my professional</p> <p>10 judgment, are relevant. And, furthermore, these pieces</p> <p>11 of information is what I think other people will also</p> <p>12 look at carefully when making their judgment on whether</p> <p>13 to promote or not.</p> <p>14 These other people's duty is to read the</p> <p>15 entire dossier. No one has removed the Simons</p> <p>16 Institute -- mention of the Simons Institute in the</p> <p>17 dossier. I didn't do it. The Budget Council didn't do</p> <p>18 it. The P&amp;T Committee didn't do it. The dean didn't do</p> <p>19 it. It's there, and it's everybody's duty to read the</p> <p>20 entire dossier before making a decision.</p> <p>21 Q. And it's your duty to make a strong</p> <p>22 presentation of your faculty member, going forward with</p> <p>23 accurate information, both positive and negative?</p> <p>24 MS. HILTON: Objection, form.</p> <p>25 A. I -- I think I answered this question. I told</p>
<p>135</p> <p>1 knowledge about what would happen above you?</p> <p>2 MS. HILTON: Objection, form.</p> <p>3 A. They're not -- it's not a question of</p> <p>4 creating with their knowledge above me. It is our</p> <p>5 professional judgment of what pieces of information are</p> <p>6 very relevant and what pieces of information are less</p> <p>7 relevant and which are in the rest of the dossier.</p> <p>8 People are supposed to read the whole dossier. They</p> <p>9 don't just read my letter, and that's it.</p> <p>10 Q (BY MR. NOTZON) Professor Tewfik, what --</p> <p>11 you're saying that it wouldn't change anybody's</p> <p>12 decision; and anybody's decision is anybody's decision</p> <p>13 above you, correct?</p> <p>14 A. Correct.</p> <p>15 Q. Okay. So -- all right. So when you say you</p> <p>16 relied on your experience about what would happen above</p> <p>17 you and the other members of the Budget Council, I'm</p> <p>18 just finishing the sentence for you that it's other</p> <p>19 members of the Budget Council's understanding of what</p> <p>20 would happen in the decision-making process above you,</p> <p>21 correct?</p> <p>22 MS. HILTON: Objection, form.</p> <p>23 A. You -- I don't know where you want to go with</p> <p>24 this.</p> <p>25 Q (BY MR. NOTZON) I'm just asking you to</p>	<p>137</p> <p>1 you that in my first few months at UT when I met the</p> <p>2 president, he told me that my letter should not be a</p> <p>3 rah, rah, rah for the person that we're putting up for</p> <p>4 promotion. I should discuss --</p> <p>5 MR. NOTZON: Object as nonresponsive.</p> <p>6 Q. (BY MR. NOTZON) I didn't ask that.</p> <p>7 A. That's what you asked.</p> <p>8 Q. No. It would make this process go a whole lot</p> <p>9 faster if you'd just answer my question.</p> <p>10 Do you agree or do you disagree that the</p> <p>11 Simons Institute is a big deal?</p> <p>12 MS. HILTON: Objection, form.</p> <p>13 A. Define "a big deal." It could be a big deal</p> <p>14 to you.</p> <p>15 (Simultaneous speakers.)</p> <p>16 Q (BY MR. NOTZON) In the field that</p> <p>17 Dr. Nikolova operates.</p> <p>18 A. It's a nice recognition, but what's "a big</p> <p>19 deal"? I mean, a big deal means that you do this, you</p> <p>20 get promoted; or it's a big deal, you get this; and we</p> <p>21 give you an award? What is "a big deal"? We give you a</p> <p>22 huge raise? What is "a big deal" to you?</p> <p>23 Q. Is it competitive to participate in?</p> <p>24 A. I have no knowledge of that because I'm not in</p> <p>25 her field.</p>

<p>138</p> <p>1 Q. Haven't you read the letters?</p> <p>2 A. I've read the letters, but that -- that</p> <p>3 doesn't tell me whether -- you know, how important that</p> <p>4 is.</p> <p>5 Q. It doesn't -- they don't actually specifically</p> <p>6 state that to you?</p> <p>7 MS. HILTON: Objection, form.</p> <p>8 A. I read the letters, and that was my</p> <p>9 assessment. And, furthermore, at this moment in time, I</p> <p>10 don't remember the letters. So if you want to show me</p> <p>11 the letters, we can look at the letters and read them</p> <p>12 and then we can debate how important it is or it's not.</p> <p>13 Q (BY MR. NOTZON) The truth is you read the</p> <p>14 letters back in; and you made your decision back then,</p> <p>15 correct?</p> <p>16 A. I read the letters --</p> <p>17 MS. HILTON: Objection, form.</p> <p>18 A. -- back then; and I made a decision back then,</p> <p>19 yes.</p> <p>20 Q (BY MR. NOTZON) Okay. Did you ever tell</p> <p>21 Dr. Nikolova that she had a not strong, or even a weak</p> <p>22 case, prior to her going up?</p> <p>23 A. As I mentioned sometime ago, I mean -- I don't</p> <p>24 know -- half an hour ago or in one of the questions, up</p> <p>25 to very close before the Budget Council, we were unsure</p>	<p>140</p> <p>1 recommend going up for promotion at this time?</p> <p>2 A. I told her that if we -- my recollection is I</p> <p>3 told her that if these paper did not go through, that we</p> <p>4 should not go up for promotion at this time.</p> <p>5 MS. HILTON: Robert, can we take a brief</p> <p>6 break?</p> <p>7 MR. NOTZON: In a little bit.</p> <p>8 MS. HILTON: Okay.</p> <p>9 Q (BY MR. NOTZON) So in your letter, you</p> <p>10 mention -- in Exhibit 6, at the beginning, you mention a</p> <p>11 couple of professors in that second-to-last sentence of</p> <p>12 the second paragraph?</p> <p>13 A. Yes.</p> <p>14 Q. Who were those?</p> <p>15 A. I told you that we -- the votes are anonymous,</p> <p>16 and the comments are anonymous. So I don't know who</p> <p>17 those are.</p> <p>18 Q. Okay. It doesn't say that those were</p> <p>19 anonymous. That's why I'm asking.</p> <p>20 A. It does say, "My colleagues expressed support</p> <p>21 for Evdokia during the promotion case and in the</p> <p>22 anonymous comments submitted with the vote."</p> <p>23 Q. That's a separate sentence.</p> <p>24 A. Well, I didn't write that in the next</p> <p>25 sentence; but that's -- the next sentence referred to</p>
<p>139</p> <p>1 whether we would be able to put her up for promotion or</p> <p>2 not because we were waiting for the results of the</p> <p>3 papers that she had submitted to conferences. That</p> <p>4 sends the message that there is a problem, that this is</p> <p>5 not a strong case. If this were a strong case, we would</p> <p>6 have known a year in advance or nine months in advance</p> <p>7 that we're good to go; nothing to worry about.</p> <p>8 MR. NOTZON: Object as nonresponsive.</p> <p>9 Q (BY MR. NOTZON) Professor Tewfik, did you</p> <p>10 tell Dr. Nikolova that you felt that she had a weak</p> <p>11 case?</p> <p>12 A. I don't recall what I specifically told her or</p> <p>13 not, but what I do recall is what I just mentioned a</p> <p>14 minute ago.</p> <p>15 Q. What you mentioned is facts; but you didn't</p> <p>16 mention a conversation between you and Dr. Nikolova,</p> <p>17 which is what my question is.</p> <p>18 A. I'm -- well, those facts are because these</p> <p>19 were conversations I had with Dr. Nikolova that, "We</p> <p>20 need additional publications for your case to make it</p> <p>21 through." And this is why she did let me know when her</p> <p>22 papers were published.</p> <p>23 Q. Thank you. That's what I'm trying to get</p> <p>24 clarified, that you actually told her this.</p> <p>25 Did you tell her that you didn't</p>	<p>141</p> <p>1 those anonymous comments.</p> <p>2 Q. Okay. Now, the "weak engagement in the</p> <p>3 department and the wireless communications and</p> <p>4 networking center, the WNCG," so was it a combination of</p> <p>5 the department and the wireless communications; or was</p> <p>6 there a focus on one or the other?</p> <p>7 A. Different people had different opinions.</p> <p>8 Q. Okay.</p> <p>9 A. And I have no way -- so, first of all, these</p> <p>10 comments surfaced a number of times, including in the</p> <p>11 Budget Council meeting and including in the anonymous</p> <p>12 comments; but in the anonymous comments, I have no way</p> <p>13 of knowing whether the person belongs to WNCG or not.</p> <p>14 Q. Okay. And it does say "a couple," a couple</p> <p>15 out of 35 people -- or 37 people, that's not very many?</p> <p>16 A. This is two in the anonymous comments. And</p> <p>17 you could take it that way, yeah, the only two submitted</p> <p>18 of these types of anonymous comments. And that may be</p> <p>19 your view. And -- but in the Budget Council, people did</p> <p>20 voice that concern before and after the Budget Council.</p> <p>21 So it's not the concern of two people. It's the concern</p> <p>22 of many people, some of whom -- or most of whom elected</p> <p>23 not to provide any anonymous comments with their votes.</p> <p>24 Q. And when you say "after the Budget Council,"</p> <p>25 you're talking about the Budget Council vote on</p>

<p>142</p> <p>1 Dr. Nikolova?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And did you ever tell Dr. Nikolova that</p> <p>4 you felt that, based upon your prior testimony, that if</p> <p>5 she would have been a man, she would not have been voted</p> <p>6 up?</p> <p>7 A. I don't remember sharing that information with</p> <p>8 her.</p> <p>9 Q. Okay. Did you share that information with</p> <p>10 Dean Wood?</p> <p>11 A. No. This is my own assessment; and there is</p> <p>12 no reason for me to share this information with</p> <p>13 Dean Wood, in particular, that I wanted Dr. Nikolova to</p> <p>14 be promoted, not to not be promoted.</p> <p>15 Q. Okay. Did you share it with any members of</p> <p>16 the ECE faculty?</p> <p>17 A. No, I don't share these types of opinions with</p> <p>18 anyone.</p> <p>19 Q. Did anyone in the ECE Budget Council make such</p> <p>20 a statement?</p> <p>21 A. Yes, people made such a statement; and there</p> <p>22 is -- my recollection is in the anonymous comments,</p> <p>23 there was at least one statement along those lines.</p> <p>24 Q. Okay. Is that the only place you saw that</p> <p>25 reference to if Dr. Nikolova was a man, she would not</p>	<p>144</p> <p>1 that it was -- that because she was a woman, the vote</p> <p>2 was going that way to support tenure; or was it that,</p> <p>3 "Hey, we just want a woman" -- not -- scratch.</p> <p>4 That, "It's good that she's a woman</p> <p>5 because we need more women"?</p> <p>6 MS. HILTON: Objection, form.</p> <p>7 A. I don't understand what you're asking.</p> <p>8 Q. (BY MR. NOTZON) Okay. Your take on the</p> <p>9 comments -- comment or comments, plural, whichever they</p> <p>10 were, is that, had she been a man, she probably would</p> <p>11 not have been voted up?</p> <p>12 (Simultaneous speakers.)</p> <p>13 MS. HILTON: Objection, form.</p> <p>14 Q. (BY MR. NOTZON) I'm sorry?</p> <p>15 A. That's correct.</p> <p>16 Q. Okay.</p> <p>17 MR. NOTZON: We can take a break now.</p> <p>18 Sorry, Ms. Hilton.</p> <p>19 MS. HILTON: Thank you.</p> <p>20 THE REPORTER: We're going off the record</p> <p>21 at 3:07 p.m.</p> <p>22 (Off the record from 3:07 to 3:19 p.m.)</p> <p>23 THE REPORTER: We're going back on the</p> <p>24 record at 3:19 p.m.</p> <p>25 Q. (BY MR. NOTZON) Okay. I just want to finish</p>
<p>143</p> <p>1 have been voted up, was just in the anonymous comments?</p> <p>2 A. You know, this may have come up in the verbal</p> <p>3 discussions. So in terms of something written and where</p> <p>4 I can look at and recall, that's where I can point to.</p> <p>5 Q. So is your testimony that it may have occurred</p> <p>6 verbally as well, or you don't remember; you're just</p> <p>7 making the possibility there because you don't remember</p> <p>8 one way or the other?</p> <p>9 A. I don't remember one way or the other; but the</p> <p>10 issue that came up that as discussion is, "We want to</p> <p>11 retain her because we don't have enough female faculty</p> <p>12 members." So you can extrapolate from that and make</p> <p>13 your own, you know, decision or conclusion.</p> <p>14 Q. So when that comment was made, you did not</p> <p>15 explore the basis of that comment?</p> <p>16 A. I don't intervene in the Budget Council</p> <p>17 discussions because I have my own opinion, so I just</p> <p>18 listen. People discuss it, and they vote.</p> <p>19 Q. And nobody else intervened to ask what was</p> <p>20 meant by that comment?</p> <p>21 A. I don't recall the -- you know, this has been,</p> <p>22 like, three years ago, almost. I don't -- I don't</p> <p>23 remember exactly what -- precisely who said what and who</p> <p>24 responded to whom.</p> <p>25 Q. Is it your understanding from that comment</p>	<p>145</p> <p>1 up that kind of -- that area of questioning, Professor,</p> <p>2 on the number of people in the department that kind of</p> <p>3 held this belief that we were talking about that the --</p> <p>4 the one about Dr. Nikolova having issues of engagement</p> <p>5 with the department or the wireless part.</p> <p>6 There was -- you said there was a couple</p> <p>7 of anonymous complaints, and then there were people on</p> <p>8 the Budget Council verbally conveying this. Do you have</p> <p>9 a sense of the number of people that were conveying</p> <p>10 this?</p> <p>11 A. No, I don't. You know, I didn't count people;</p> <p>12 but if I were to make a general statement, I would say</p> <p>13 that the vast majority of the professors in WNCG shared</p> <p>14 that opinion. And those who served with Evdokia on the</p> <p>15 Recruiting Committee also shared that opinion.</p> <p>16 Q. And if you counted all of those numbers</p> <p>17 together, total -- and I know you're not saying</p> <p>18 everybody -- but what would the upper limit of that</p> <p>19 number have been?</p> <p>20 A. I can't give you an answer because I'd have to</p> <p>21 go back and I really would have to look at how many</p> <p>22 professors are full professors, not associate</p> <p>23 professors, assistant professors in WNCG and which --</p> <p>24 something that would be more difficult is to go back and</p> <p>25 look at who served with Evdokia on, you know, the</p>

<p>146</p> <p>1 Recruiting Committee and who I may have staffed for 2 other committees and who may have served with her on 3 this Recruiting Committee and who spoke and -- you know, 4 I wouldn't be able to even remember who actually spoke 5 up during the Budget Council meeting, as opposed to 6 before or after. 7 Q. Okay. But just in terms of an upper-limit 8 number of those two committees, of how many people were 9 on those two committees, you don't have a ballpark 10 figure? 11 A. No. You know, I vaguely remember that WNCG 12 might be about a third of the department; but then, out 13 of that third, how many are professors and how many were 14 professors in 2018, I just don't remember. 15 Q. Okay. Because it would only be the full 16 professors that would be at issue on these comments? 17 A. Right, correct. 18 Q. So you can't say more than 10, less than 10; 19 more than 20, less than 20? 20 A. No, I couldn't. 21 Q. And there's no way to recreate that, correct? 22 All those verbal comments, there's no documentation of 23 that? 24 A. No, there's no documentation of that, yeah. 25 Q. Would it be fair to say -- and this is the</p>	<p>148</p> <p>1 the period of time that the Budget Council is going 2 through Step 1 of Dr. Nikolova's tenure consideration; 3 is that correct? 4 A. That's correct. 5 Q. And then -- and she was -- was she on campus 6 at that time, or was she away at Simons? 7 A. I have no memory of that. I know that I spoke 8 with her one -- I think -- I believe I spoke with her 9 once -- at least once, I believe -- and I may be 10 completely wrong -- in person. I know that we had a 11 discussion of -- I vaguely remember having a discussion 12 of maybe meeting with her in California because I was 13 going to fly to California, and that didn't happen 14 because my mother passed away around that time. So she 15 might have been in California for some reason, or she 16 might have been in California for the entire semester. 17 I don't know -- I mean, I don't remember. 18 Q. That's a long way of asking: Did you know 19 that she was pregnant during that semester, Spring of 20 2018? 21 A. I mean, unless she told me. I mean, it 22 doesn't -- I don't remember she telling me, but she may 23 have told me; and, you know, that wouldn't have changed 24 anything, so -- meaning, during that semester. 25 Q. No, I'm not asking if it would change</p>
<p>147</p> <p>1 last time I'm going to -- I think I'm going to try to 2 test your memory on this issue. Would it be fair to say 3 that it was less or more than half of the Budget 4 Council? 5 A. I really wouldn't be able to answer that 6 question because some people are vocal and they'll say 7 it. Others may have discussed it with those same 8 people, you know, outside of a meeting; and then, that's 9 reflected in their vote or in some other comment they 10 made. I have no way of -- you know, short of having a 11 survey, I have no way of giving you an answer. 12 Q. Okay. Did you ever let Dr. Nikolova know that 13 there was this level of displeasure or concern with her 14 lack of engagement in the department and the wireless 15 part prior to going up? 16 A. I vaguely remember having a conversation with 17 Dr. Nikolova, again, when we were in the UTA building 18 around that topic; and she, in turn, mentioned a concern 19 of not being involved enough in WNCG meetings and 20 discussions between different people. And this is when 21 I suggested to her to pick up a mentor outside of her 22 area. 23 Q. Did -- when you were having a meeting with -- 24 well, I guess, let me -- let me ask it this way: Do you 25 remember in the Spring of 2018 -- which would have been</p>	<p>149</p> <p>1 anything. I'm just asking if you knew. And I'll 2 represent to you her second child was born in June of 3 2018. So, you know, she would have been pregnant since 4 September, on, kind of thing; and so I just didn't know 5 if that was a known issue for you. And then she ended 6 up taking her Modified Instructional Duty for that 7 second child in the Fall of 2018, which would have been 8 the beginning of the consideration period for the 9 tenure, correct? 10 A. I don't remember the details of pregnancy and 11 when she went on Modified Instructional Duty or not; 12 but, you know, yes, she took -- she took Modified 13 Instructional Duty semesters off. I don't remember how 14 many or when. 15 Q. Okay. Well, would it be accurate that you 16 would have known at the time in the summer that her 17 dossier's being prepared that she had just given birth? 18 MS. HILTON: Objection, form. 19 A. So we -- normally -- and I don't -- I don't 20 remember what happened during that period of time; but 21 normally what happens is the faculty member comes to me 22 and says, "I'm pregnant" or "My wife is having a baby" 23 or "My partner's having a baby"; and then we have a 24 discussion. "Okay. When do you want -- when would you 25 like to take your semester off?" They don't do this at</p>



<p>150</p> <p>1 the last minute. They normally do this far in advance.  2 So I would have to assume that if she did deliver in the  3 Summer of 2018, that she would have let me know sometime  4 in advance of that that she was pregnant. We would have  5 had that conversation, and we would have filled the  6 required paperwork around that time.  7 Q. And so if she -- when she took the Modified  8 Instructional Duty in the Fall of '18, that that would  9 be known to you and the department. Would it -- would  10 it also be something that the college would know?  11 MS. HILTON: Objection, form.  12 A. Yes. In recent years, this would be something  13 that the college would be aware of because in my first  14 years as Department Chair -- and I don't remember  15 exactly when the transition happened. Maybe it happened  16 when Dean Wood became the Dean; maybe it happened  17 shortly thereafter. I don't recall.  18 In the first few years, the faculty  19 member would come to me. I would give them the Modified  20 Instructional Duty, and it stayed at the department  21 level. At some point during Dean Wood's tenure, I was  22 required to write the memo and that memo needed to go to  23 the Dean and, you know, there was some discussion and  24 then they would say, "Approved."  25 Q. Okay. And so that change in the process would</p>	<p>152</p> <p>1 you came to me; you said, "I'm pregnant" or "My wife is  2 pregnant," I gave you your Modified Instructional Duty.  3 And that was the end of the story.  4 And, as I mentioned, when Dean Wood  5 became dean, at some point she said, "No, you can't do  6 this on your own. You really have to refer this to me;  7 and then I will say 'yes' or 'no.'"  8 Q. Okay. And so there's -- the only way to know  9 when that change happened is when those memos started  10 getting written and approved?  11 A. That's correct, yes.  12 Q. There's no -- there's no writing from the  13 Dean's Office that says, "This is the new policy on  14 Modified Instructional Duty"?  15 A. I don't remember such an e-mail; and, again,  16 we were probably the only department that had it to that  17 level. I mean, others had it, you know, like, instead  18 of teaching two courses, you might teach one course. So  19 I suspect that there was no e-mail blast to all the  20 departments saying that this is happening because the  21 change, really, was targeted at ECE.  22 I may have received an e-mail from the  23 dean or associate dean saying, "From now, you do this"  24 or I may have gone into a meeting and said, you know,  25 "'X' is going on Modified Instructional Duty," and they</p>
<p>151</p> <p>1 have occurred shortly after Dean Wood became the dean?  2 A. I honestly don't remember exactly when it  3 happened, but it happened. I mean, this was part of a  4 lot more -- you know, more memo-writing requirements  5 over a period of time.  6 Q. Okay. So you would have to approve the  7 Modified Instructional Duty first and then send it up.  8 If you approved it, then the Dean would then have to  9 approve it?  10 A. Yes.  11 Q. And if you denied it -- or I don't know if you  12 ever have denied it. Have you ever denied a request for  13 Modified Instructional Duty?  14 A. So before I came to the department, there was  15 no such thing that if you became pregnant, we would give  16 you a month off teaching; and, in fact, in other  17 departments, that does not exist. They may lighten your  18 teaching schedule, but they will not take you off  19 teaching.  20 When I arrived in the department, the  21 first thing I said is, "We need to be friendly to our  22 professors. We need to be friendly to families, and  23 this is what I'm going to do." And since this was on  24 the department's dime, nobody objected. And, initially,  25 because it was just the department, I could do it. So</p>	<p>153</p> <p>1 said, "Oh, from now on, you'll have to ask our  2 permission."  3 Q. Do you remember who the first person is that  4 you had to write that memo for?  5 A. No, I don't.  6 Q. Okay. And so that memo that you would write  7 requesting Modified Instructional Duty to the dean for  8 approval and the dean's approval would be kept in the  9 faculty member's file?  10 A. I don't think so. Maybe in the faculty  11 department's file at the college level, not at the  12 department level.  13 Q. Okay. So you'd get a copy of the approval or  14 notice of the approval, but you wouldn't get the actual  15 approved memo?  16 A. I would get an e-mail saying, "Approved." You  17 know, I wouldn't get -- I don't remember. Maybe at some  18 point they were sending memos saying, "Approved." But  19 it's more likely that it was just an e-mail saying,  20 "Approved."  21 Q. Okay. And then do you forward that e-mail to  22 the faculty member?  23 A. No. Normally, once we started having that  24 requirement, we would tell the faculty member that we're  25 good to go. The most important person to know that this</p>



<p>154</p> <p>1 is -- that it's been approved is really the departmental</p> <p>2 executive assistant, who then makes sure that, you know,</p> <p>3 that's taken care of.</p> <p>4 Q. Oh, and just to close that -- that process</p> <p>5 box, in your memo requesting approval from the dean for</p> <p>6 Modified Instructional Duty, are you identifying what</p> <p>7 the faculty member's going to do in lieu of instruction?</p> <p>8 A. Yes, because when I started this policy and I</p> <p>9 had to fit it under the UT policy, which has no such</p> <p>10 allowance, I had to -- because I could have -- even</p> <p>11 before the requirement for the memos, the provost or the</p> <p>12 dean could have said, "What is this faculty member</p> <p>13 doing? You have no right to do this."</p> <p>14 I would -- I would make sure to talk with</p> <p>15 the faculty member; and I would say, "The faculty member</p> <p>16 will be working on developing a new course" or will be</p> <p>17 doing something else that doesn't require, you know,</p> <p>18 being somewhere at a given time, you know, twice a week</p> <p>19 or three times a week, et cetera. So there was always</p> <p>20 an explanation of what the faculty member would be</p> <p>21 doing, even before the memo requirement.</p> <p>22 Q. Okay. Which makes sense, yeah. So do you</p> <p>23 remember -- you know, do you remember writing a memo for</p> <p>24 approval from Dean Wood for Dr. Nikolova?</p> <p>25 A. Well, the fact that Dr. Nikolova had, I don't</p>	<p>156</p> <p>1 correct?</p> <p>2 A. No, I would have had much earlier</p> <p>3 conversations. So every year I do meet with the dean</p> <p>4 and associate dean, and we talk about potential</p> <p>5 promotion cases. And during these meetings, they</p> <p>6 don't -- they don't -- they cannot veto any case. They</p> <p>7 have no authority to say: Yes, you can or cannot put</p> <p>8 somebody up for promotion. But what I'm doing at these</p> <p>9 meetings is I present the information and I hear what</p> <p>10 they're saying. I look at their body language, and I</p> <p>11 come back with an assessment, if we went forward, are</p> <p>12 they going to be supportive or not. And if they're</p> <p>13 not -- in my opinion, if they're not supportive, then I</p> <p>14 would go back and huddle with the faculty member and the</p> <p>15 mentor of that faculty member; and we would decide do we</p> <p>16 go forward or not.</p> <p>17 Q. Okay. So when is the first one of those</p> <p>18 conversations you recall regarding Dr. Nikolova?</p> <p>19 A. I have no recollection of when that first one</p> <p>20 was. I remember that Dr. Nikolova was keen on getting</p> <p>21 promoted. So I know that we had a number of</p> <p>22 conversations around promotions before 2018. When was</p> <p>23 the first one, I don't know. You know, it could have</p> <p>24 been '17; it could have been '16. I don't remember.</p> <p>25 Q. Okay. Oh, and just to make sure we identify</p>
<p>155</p> <p>1 know, two or three -- I don't know how many -- Modified</p> <p>2 Instructionals -- three? Okay. So she had three, means</p> <p>3 that I had to write a memo at least twice, most likely,</p> <p>4 three times to get it approved.</p> <p>5 Q. Okay. And it's two before she -- or two</p> <p>6 before and during her tenure consideration, just to be</p> <p>7 clear. That third one was most recently, so.</p> <p>8 Did you ever have conversations with</p> <p>9 Dean Wood about Dr. Nikolova's pregnancies, one, two, or</p> <p>10 three?</p> <p>11 A. No, that's not something that I engage in,</p> <p>12 have conversations about pregnancies or any other family</p> <p>13 issues. For the pregnancies and family issues in which</p> <p>14 I would have to give a Modified Instructional Duty,</p> <p>15 meaning, it would span an entire semester, I had to</p> <p>16 write an memo. So that was the extent of the discussion</p> <p>17 is, you know: There are these circumstances. I'm</p> <p>18 providing Modified Instructional Duty, and that was it.</p> <p>19 And there was no other discussion about that.</p> <p>20 Q. And so -- and just to follow on from that, you</p> <p>21 had -- let me see if we can reconstruct the number of</p> <p>22 conversations you had with Dean Wood about</p> <p>23 Dr. Nikolova's candidacy for tenure. Okay? So you</p> <p>24 would have had the first discussion with her after</p> <p>25 Step 1 vote of the Budget Council in the Spring of '18,</p>	<p>157</p> <p>1 the person, the associate dean you were talking about,</p> <p>2 is that Dr. Speitel?</p> <p>3 A. Yes, it's Dr. Speitel.</p> <p>4 Q. Okay. And -- but you do remember having a</p> <p>5 conversation with Dean Wood and Dean Speitel prior to</p> <p>6 the Spring of 2018 about Dr. Nikolova, or you're just</p> <p>7 presuming you did?</p> <p>8 A. I'm presuming I did because I remember that</p> <p>9 Dr. Nikolova wanted to be promoted before 2018. So as</p> <p>10 part of the decision process, I almost surely would have</p> <p>11 discussed this verbally with the dean and associate</p> <p>12 dean.</p> <p>13 Q. Okay. And -- but you don't remember the</p> <p>14 substance of that conversation or what Dean Wood or</p> <p>15 Dean Speitel's reactions were at that initial time you</p> <p>16 met with them?</p> <p>17 A. No, I don't; but given that we didn't go</p> <p>18 forward with promotion at the time, you know, if that</p> <p>19 occurred in '16 or '17, let's say, that would tell me</p> <p>20 that I probably didn't get a strong enough signal and</p> <p>21 that when we huddled back, we decided not to go forward.</p> <p>22 Q. Okay. So let's go ahead and move to Spring of</p> <p>23 2018 for that meeting. Do you recall what was conveyed</p> <p>24 during that meeting about Dr. Nikolova?</p> <p>25 A. So, again, I don't remember the details; but I</p>

<p>158</p> <p>1 can tell you sort of how it works. So going into the 2 meeting, I normally ask the candidate to prepare a few 3 documents; and the purpose of these documents are to put 4 the best case on why we should go forward with a 5 promotion. 6 Some of these documents are really from 7 the department. For example, I ask the candidates to 8 write a statement about leadership and research and 9 teaching, you know, so sort of what are the great things 10 that you're doing which are above expectations in 11 teaching and research. I do -- we do a preliminary peer 12 comparison, so who else is like you and has been 13 promoted to the rank that we want to promote you to that 14 comes from top universities. 15 The College requires the candidate to 16 provide a particular document. That's a purely 17 numerical document that would list how many papers they 18 published and how many papers are published in each year 19 and how many were conference papers, how many were 20 journal papers. And there is information about, you 21 know, probably course instructor scores. There's 22 information about funding, et cetera; and then there is 23 the CV. 24 So all of that information I collect and 25 I forward to both Speitel and Wood ahead of our meeting.</p>	<p>160</p> <p>1 (Exhibit 23 marked.) 2 Q. (BY MR. NOTZON) And all I'm asking is: Is 3 this the type of document you're referring to? 4 A. No, that's not the document that I'm 5 referring to. There is another form that's called -- 6 that we, at least internally, refer to as The Dean's 7 Form; and that form does not go into the dossier. 8 That's a form that's used only in the March/April 9 timeframe, which just lists -- you know, it asks you to 10 put your name, how many years have been in rank, and 11 that sort of stuff. So that's not it. 12 Q. Could you -- do you recognize that form, 13 Exhibit 23, what that's used for? 14 A. So, normally, I don't see -- normally, I don't 15 see that document. Normally, I don't see the dossier 16 after it leaves the department. The reason I got to see 17 Professor Nikolova's dossier is because we recommended 18 that she ask for a copy of her dossier, and she made it 19 available to me. Normally, I don't see this form or 20 anything in the dossier that gets added to it after it 21 leaves the department. 22 Q. Okay. So you -- so would you -- would it be 23 accurate that you don't recognize this form? 24 A. That I normally don't see. 25 Q. You recognize the form, but did you know that</p>
<p>159</p> <p>1 So going into the meeting, they would have looked at it; 2 and then we chat. They provide me with their impression 3 of whether this is a case they think is strong or not or 4 whether that they think that we may have problems at the 5 Presidential Committee level. 6 Q. Okay. And so with Dr. Nikolova, would it be 7 accurate that you don't remember what was specifically 8 shared from Dean Wood and Dean Speitel; is that right? 9 A. Yeah, I don't remember exactly what was 10 shared; but what I do remember is because there was some 11 uncertainty in our mind in terms of should we go forward 12 or not and that uncertainty hinged on whether certain 13 papers that were under review would be accepted or not 14 and that I did not come out of that meeting having a 15 sense of, yes, they're supportive or no, they're not 16 supportive. Had I had a sense in that meeting that this 17 is going to run into trouble, I would have gone back to 18 Dr. Nikolova and Sanjay Shakkottai and Constantine 19 Caramanis and have said, "Based on what I heard, based 20 on the body language I saw, I would recommend we don't 21 go forward." 22 Q. Okay. I just put a document -- did I? No, I 23 didn't. I'm going to put a document in the chat to see 24 if this is the document that you're talking about, the 25 purely numerical document. It may or may not be.</p>	<p>161</p> <p>1 you don't have access to it? 2 A. I don't recognize the form, you know. When 3 you sent it to me and I looked at it, I got what it 4 meant; but, no, it's not a form that I see. Okay? 5 Q. Okay. 6 A. I mean, it's not a form that, "Oh, yeah this 7 is a form that I'm used to and I know exists." 8 Q. Okay. That's what I'm trying to find out. 9 Okay. You can't tell me anything about this form in 10 terms of how it's used or if it's used or why it's used 11 at UT? 12 A. No. 13 Q. Okay. Then I don't need to ask anything about 14 the contents of it at this point. 15 All right. Let me stop before moving on 16 with the tenure process past the conversation with 17 Dean Wood and Dean Speitel. 18 Would it be accurate that if you're going 19 to rescind a probationary extension, that -- as a 20 faculty member that you would have taken prior to going 21 up for tenure, that you would need to rescind it, I 22 think is the proper term, prior to Step 1 of the Budget 23 Council? 24 MS. HILTON: Objection, form. 25 A. So I really can't answer this question because</p>

<p>162</p> <p>1 I've seen it done in a number of ways over the years;  2 and so -- so much so that every year, when we have a  3 situation in which we are putting somebody up for  4 promotion and that person has taken an extension of  5 their tenure time, I would tell them at the beginning of  6 the process, "They may ask us to submit a memo in  7 January. Sometimes they ask us to send an e-mail" --  8 for the faculty member to send an e-mail. That could be  9 in May or June. Sometimes they don't seem to care. So  10 there is a variation, and you're going to see all sorts  11 of possibilities if you were to look at all of the cases  12 in which that has happened.</p> <p>13 Q. Okay. So would it be accurate to say that  14 there is no specified written deadline by which a  15 probationary extension must be rescinded prior -- during  16 the -- or -- in order to be considered rescinded for the  17 tenure promotion consideration process?</p> <p>18 MS. HILTON: Objection, form.</p> <p>19 A. I really can't answer this question because  20 there could -- there could be a UT policy that says,  21 you know, "You have to do this." But it could be that  22 Provost A enforced it and Dean B enforced it or  23 Provost C, you know, did not enforce it and then the  24 dean didn't care or the staff on -- the dean's staff  25 didn't care.</p>	<p>164</p> <p>1 little bit more clear for what I'm trying to get it.  2 The changes you've experienced, you've witnessed, is it  3 that the, quote, unquote, "deadline to rescind" keeps  4 getting pushed further along in the timeline or does it  5 exist at this date and then it's -- it could be later  6 and then the next time it might be earlier? It just  7 goes back and forth?</p> <p>8 MS. HILTON: Objection, form.</p> <p>9 Q. (BY MR. NOTZON) Do you see the distinction  10 I'm asking?</p> <p>11 A. Yeah. I don't think that any deadline  12 changed. I think the way it was enforced changed,  13 meaning sometimes it was strict enforcement; sometimes  14 an e-mail was fine. Also, there is -- and that there is  15 a distinction, meaning that there's a way for you to go  16 up for promotion without rescinding the extension; and  17 there's a way for you to go up for promotion while  18 rescinding the extension. And because of that  19 confusion, I think that the staff at multiple levels  20 were confused; and that's why, likely, we were getting  21 different answers at different times, like, "Yeah, you  22 need to submit a form in January" or when we did not  23 submit a form in January, in May, say, "Okay. It's  24 fine. You can submit a form now" or "An e-mail is  25 enough" or "Don't do anything."</p>
<p>163</p> <p>1 Basically, usually, you know, what  2 happened is I would send an e-mail, you know, one -- I  3 started to get confused. I would send an e-mail to  4 Dean Speitel's assistant and say, "Okay. You know,  5 Professor X is going up for promotion. Do we need to do  6 anything?"</p> <p>7 And then she would check with the  8 Provost's Office and come back saying, "Yeah, do this,"  9 or "No, you're fine." And that answer, to the best of  10 my recollection, changed from year to year. So there  11 was no consistency.</p> <p>12 Q. Okay. All right. So you don't know if  13 there's -- one way or the other, if there's a written  14 rule. You're saying there might be, but you don't know?</p> <p>15 A. Yeah, there might be; and I don't know.</p> <p>16 Q. Okay. All right. And then next is: You have  17 experienced that the ability to rescind a probationary  18 extension has changed to -- from one date to another and  19 back again, back and forth?</p> <p>20 MS. HILTON: Objection, form.</p> <p>21 A. You know, from my perspective, it seemed to be  22 somewhat random, you know, what exactly we needed to do  23 by when.</p> <p>24 Q. (BY MR. NOTZON) Okay. And that was -- that  25 was a pretty unclear question. Let me try to make it a</p>	<p>165</p> <p>1 Q. And what is your understanding of -- well,  2 actually, before I ask that question, let me ask one  3 more. Are you aware of anybody being told that they  4 were not allowed to rescind their probationary extension  5 year?</p> <p>6 A. Not in our department. I'm not aware of  7 anyone. And -- and, frankly, you know, if you want to  8 get answers to these questions, I'm not the one that you  9 should be -- you know, you should be talking to someone  10 on the dean's staff or, better yet, the provost's staff.</p> <p>11 Q. And I appreciate that in terms of policy, but  12 I'm asking you from your experience.</p> <p>13 A. From my experience, I haven't seen a case in  14 which we asked to put somebody up for promotion and  15 where there was this issue of rescinding the extension  16 and we were told, "No, you can't."</p> <p>17 Q. Okay. Specifically related to Dr. Nikolova, I  18 understand that -- that she was not asked to -- whether  19 or not she wanted to rescind her probationary extension  20 year. Do you recall that to be the case?</p> <p>21 A. I don't recall that; but what would have  22 happened is that Jilda, who is in charge of, you know,  23 helping with the promotion dossiers, would have picked  24 up the fact that Dr. Nikolova had asked for more than  25 one extension and would have reached out to the staff</p>

<p>166</p> <p>1 member and Dr. Speitel's office or would have asked me 2 to reach out to that member. And I would have asked the 3 question; and that member would have said, "Yes, you 4 need to do this" or "An e-mail is enough" or "There's 5 nothing you need to do." 6 Q. Okay. And just to clarify, you don't remember 7 one way or the other whether Dr. Nikolova was offered or 8 informed of the pros and cons of rescinding the 9 probationary extension? 10 MS. HILTON: Objection, form. 11 A. No, I don't recall that discussion. 12 Q. (BY MR. NOTZON) Okay. Would it have been you 13 to have that conversation with her, or would somebody 14 else have had that conversation with her? 15 MS. HILTON: Objection, form. 16 A. Since I'm not on top of these rules and 17 regulations, if there was any danger to rescinding an 18 extension, you know, that -- the conversation -- the 19 information would have come from the provost through the 20 Dean's Office to me, to the faculty member or directly 21 from the provost to the faculty member or from the 22 Dean's Office to the faculty member. 23 Q. Okay. And you don't recall that going through 24 you with Dr. Nikolova? 25 A. No, I don't recall that. I vaguely recall</p>	<p>168</p> <p>1 happened. And then, depending on what we were asked to 2 do, there was the appropriate communication with the 3 faculty member. 4 Q. Okay. So you do remember being a part of that 5 communication for other folks, but you don't remember 6 being a part of that communication about probationary 7 extension rescissions or not with Dr. Nikolova? 8 A. Right, but the other folks -- I mean, if you 9 tell me did I -- was I part of that conversation with 10 'X,' I would have the same answer. I -- I don't 11 remember. 12 Q. You don't remember who; but you remember being 13 there for -- 14 A. Yeah. 15 Q. -- somebody, one or two or three people? 16 A. Yes. And I assume that this happened with 17 every single person, that every single person, because 18 the staff at college level, I don't think ever let a 19 case pass without checking with the Provost's Office, 20 "Do we need to do this" or "Do we need to do that" or, 21 you know, "What should we do?" 22 Q. Okay. 23 A. Therefore, for each case, we would have gotten 24 instructions what to do. 25 Q. Is it your understanding that because</p>
<p>167</p> <p>1 that -- not in this particular case; but at some point 2 in time, it might have been mentioned that if we rescind 3 the extension, then, we risk the case being turned down 4 and that year becoming the out year -- that if the case 5 is turned down, that that becomes the out year of the 6 faculty member, where the faculty member would not have 7 another shot at it. 8 Q. Isn't it recall -- referred to as the up-or- 9 out consideration? 10 A. Yes. So that if you -- if you did rescind 11 your extension, then, you -- effectively, you were 12 putting yourself in the up-or-out year. 13 Q. Okay. Was there ever a time that you were 14 the person that was communicating with the tenure-and- 15 promotion candidate about rescinding or not rescinding 16 their probationary extension prior to going through 17 probation -- I mean, prior to going through 18 consideration? 19 A. My recollection is whenever there was such a 20 case, either we e-mailed the -- the college and asked, 21 "What should we do?" Or the college, because they knew 22 who we were putting up for promotion, would come to us 23 and say, "Did this candidate do 'X'? Did they rescind 24 their extension?" And we say "yes" or "no," and then, 25 they would give us some instruction. So that's how that</p>	<p>169</p> <p>1 Dr. Nikolova had the 2.5 years at A&amp;M, that there would 2 have been no need for her to have rescinded her one 3 probationary extension at that time to get the six years 4 total to be technically early? 5 MS. HILTON: Objection, form. 6 A. I honestly don't -- you know, technically, 7 without rescinding or no rescinding, we could have put 8 her up for promotion at any point in time, you know, and 9 take the risk. So we could have entered by X, Y, or Z; 10 but we could have done it. 11 Q. Okay. 12 A. The discussion of rescinding or not 13 rescinding, it's when we put the case in that there is 14 this discussion with the Provost; and I'm not the person 15 who can answer your questions on do we have to do it or 16 not do it. You really would have to talk with someone 17 that's knowledgeable of the rules and would have then 18 been able to answer your question. Had you done in '17, 19 what would have happened; had you done it in '16, what 20 would have happened. 21 Q. I'm just trying to get your take on it 22 because -- so, here. Work with me here, that using the 23 term "truly early" or "technically early," okay, that we 24 used before, earlier in the day, is it your 25 understanding that with having not rescinded the</p>

<p>170</p> <p>1 probationary extension, Dr. Nikolova would have had,  2 instead of five and a half and two and a half years,  3 which would be counted as five and two, you would -- you  4 would say it was four and two, because you -- she had  5 the probationary extension; so that gets you the six for  6 technically early without rescinding the probationary  7 extension?  8 MS. HILTON: Objection, form.  9 Q. (BY MR. NOTZON) Are you with me?  10 A. I'm not, unfortunately.  11 (Laughter.)  12 Q. Sorry about that.  13 Okay. So I will represent to you --  14 A. Okay.  15 Q. -- that she -- at the time that she went up,  16 she was considered to be at 5.5 years, which UT counts  17 as five, because they don't count the half, right?  18 A. Okay.  19 Q. That she took probationary extension, which  20 means that it shortens to 4, correct?  21 MS. HILTON: Objection, form.  22 Q. (BY MR. NOTZON) The probationary clock is at  23 4, because she took a probationary extension, right?  24 A. Okay. So because she took a probationary  25 extension the year that we were preparing the dossier --</p>	<p>172</p> <p>1 that drops her down to 4, correct?  2 A. That's what this document says, yes.  3 Q. Okay. And then -- and that would have  4 been -- and from what I understand from prior testimony  5 of the dean is that it's counted as of the date of the  6 promotion. So the next August, so August of '19, that's  7 when you count the total years, not the actual year that  8 it's going up?  9 A. That's correct.  10 Q. Okay. So with the 4 that is countable at UT,  11 if you add on the 2.5 at A&amp;M -- which I think they  12 probably only count the 2 -- that gets her to her 6, so  13 that when she's going up here in the 2018-2019, the one  14 time she went up for tenure, she's -- according to the  15 term you were using, she's technically early, not truly  16 early, correct?  17 MS. HILTON: Objection, form.  18 Q. (BY MR. NOTZON) I'm sorry. Your answer?  19 A. That's correct.  20 Q. Okay. So -- so that's what -- that's what I  21 was trying to ask you about. At the time that she is in  22 the Spring of '18 headed into the possibility of --  23 MR. NOTZON: Oh, time out. Some Laura  24 Barber wants to get in.  25 MS. HILTON: She's with UT System, yeah.</p>
<p>171</p> <p>1 at the end of the year that we were preparing her  2 dossier, that's the same year that she had her  3 third-year review, so from the official UT perspective,  4 this was her third year. Okay? Because they added all  5 of the extensions; they did their math.  6 And you know, we were going to do her  7 third-year review the year before; and they said, "No,  8 you can't do it." And so we didn't do it, right?  9 Q. Right.  10 A. So from their perspective, it was -- she was  11 in her third year.  12 Q. When that's happening, but the -- well, here,  13 let me -- let me just show you.  14 A. So, yes. Okay.  15 Q. Let's stop having theoreticals. Let's go  16 ahead and look at a document. Okay?  17 Okay. This is Exhibit 2.  18 A. Okay.  19 Q. Okay. So if you see the first page there --  20 got it?  21 A. Yeah.  22 Q. Okay. So if you see there, it says she's been  23 at UT for 5.5 years; but you don't count the half year,  24 right? So that's 5, but then you put on the  25 probationary extension. There was one of those. So</p>	<p>173</p> <p>1 MR. NOTZON: Just admit her?  2 MS. HILTON: Yeah. She had to sign off  3 earlier. If you could let her in, that would be great.  4 MR. NOTZON: Yeah, yeah. Okay.  5 MS. HILTON: Thank you.  6 Q (BY MR. NOTZON) So -- so if she's there in  7 the Spring of 2018, according to what you understand the  8 consideration is, that it's your understanding that she  9 doesn't need to rescind the probationary extension at  10 that point because getting her from 6 to 7 doesn't  11 change the bar; is that correct?  12 MS. HILTON: Objection, form.  13 A. I really can't comment on she needs or she  14 doesn't need to do the rescission because, as I mentioned,  15 I never understood exactly how that was done and when.  16 And so the decision on whether she should or should not  17 would have come from the Provost's Office.  18 So, again, the College would have said,  19 "We're putting these folks up for promotion." And, you  20 know, something would come from the Provost's Office;  21 and they would have told us, "Do this" or "Don't do  22 that."  23 Q. I appreciate that, but what I'm asking you is  24 for your understanding based upon what we talked about  25 earlier today, that if you're at 6 with the UT years,</p>

<p>174</p> <p>1 combined with the prior years, that you're technically 2 early; and there's no different standard applied. Do 3 you recall that testimony?</p> <p>4 A. Okay. I think there are two aspects here, one 5 that I can speak to and one that I cannot speak to. 6 Okay? So the aspect that I can speak to is: Yes, she 7 served for "X" number of years at the university; and I 8 count the number of years that she served at this other 9 institution. And I say this is technically early. And 10 there is a sentence -- actually, in the exhibit that you 11 sent me earlier, there is a sentence in there where I 12 say her case would not be early if these 3 years of 13 service are considered.</p> <p>14 Q. Yes.</p> <p>15 A. The other part is rescinding or not 16 rescinding.</p> <p>17 Q. And we're not talking about that right now.</p> <p>18 A. Okay.</p> <p>19 Q. Okay? I'm just talking about: You testified 20 earlier your experience was, from prior candidates for 21 tenure and promotion that were technically early, 22 meaning they had -- and we already went through all this 23 before, remember -- they had some years at UT and some 24 years at a prior institution that amounted to six or 25 more, they would be -- if it was -- if they were at UT</p>	<p>176</p> <p>1 A. Yes, yes.</p> <p>2 Q. So then my question is: For Dr. Nikolova in 3 the Spring of 2018, she's going to be going up, even 4 counting -- even not counting the probationary extension 5 year, she's got six years combined between the two 6 institutions. Therefore, from your experience, the bar 7 should be the same; and changing the bar from -- or 8 changing the years from six to seven by rescinding the 9 probationary extension year would not have changed the 10 consideration bar from your experience; is that correct?</p> <p>11 MS. HILTON: Objection, form.</p> <p>12 A. The bar is a subjective bar, meaning --</p> <p>13 Q. (BY MR. NOTZON) Yeah.</p> <p>14 A. -- meaning I -- my position because, as I said 15 earlier, to get promoted or not promoted should be the 16 same bar. Whether you are early or late, it's the same 17 bar. Okay? So from that perspective, you know, all 18 of -- all of this stuff is immaterial because we're 19 going by the same bar.</p> <p>20 That does not mean that everybody at UT 21 has that same perspective, not only -- I mean, in this 22 case, the dean used this in her letter; but even within 23 the Budget Council, whenever we have cases that are like 24 Nikolova, there would one or more person asking, "Why 25 are we putting this person up for tenure now? This is</p>
<p>175</p> <p>1 less than six years, they would go up as technically 2 early; and then, if their combined years was five or 3 less, they would be truly early do you remember that 4 testimony?</p> <p>5 A. If the combination of their service at another 6 institution, plus their service at UT, actual service, 7 okay, without -- because --</p> <p>8 Q. Yes.</p> <p>9 A. -- you know, the administration would say, 10 "No, we have to remove the years that you got 11 extensions."</p> <p>12 Q. Yes.</p> <p>13 A. With this apart, if the number of years at UT, 14 plus the number of years at this other institution is 15 equal to six years, you would see the same statement 16 that you see in the exhibit that you sent me that says, 17 "This is technically early because if we count these 18 years, you know, we'll be fine." I mean, there would be 19 no question about that.</p> <p>20 Q. And that there's no difference in the way that 21 the case is treated from an on-time assessment. There's 22 no higher bar; there's no award, as you put it?</p> <p>23 MS. HILTON: Objection, form.</p> <p>24 Q. (BY MR. NOTZON) That was your prior 25 testimony, right?</p>	<p>177</p> <p>1 early." We would get into this discussion of 2 technically early versus really early, and they would 3 either abstain or vote -- I mean, I'm guessing that they 4 would either abstain or vote no. But that is a 5 recurring theme.</p> <p>6 So there are people at UT for whom even 7 technically early means a higher bar, and that's not 8 something I control or anyone controls. I mean, if you 9 believe in it, I'm not going to be able to change your 10 opinion on that, right? So.</p> <p>11 MR. NOTZON: Object as nonresponsive.</p> <p>12 Q. (BY MR. NOTZON) Let me try it one more time 13 and maybe a different -- I'm going to try it a different 14 way. And using your words in your -- your testimony 15 that if Dr. Nikolova had rescinded the probationary 16 extension year before being considered for tenure, that 17 she would have been at the seventh year of combined 18 years between UT and A&amp;M and that she would not be 19 considered to have been getting an award of a truly 20 early tenure consideration. Would that be accurate in 21 your understanding?</p> <p>22 MS. HILTON: Objection, form.</p> <p>23 A. I don't think so because you just did the math 24 in front of me; and you said, "Okay. Without this extra 25 year, would she rescind" -- I mean, even if you rescind</p>



<p>178</p> <p>1 this extra year, then she would be at four. Four plus 2 two is six. 3 Q. (BY MR. NOTZON) No, no. If she rescinds, 4 she'd be at five. 5 A. If she rescinds, she's at five. So that 6 becomes seven. 7 Q. Yeah. 8 A. Seven is way above the threshold. I mean, you 9 should not be at seven. At seven, you're either 10 promoted; or you're out. Okay? So -- 11 Q. Well, let's not add -- you're adding a whole 12 other thing. 13 A. I'm not. I mean, this is the way it works. 14 Q. The question is -- the question -- my question 15 is not -- 16 MR. NOTZON: Again, object as 17 nonresponsive. 18 Q. (BY MR. NOTZON) The question is not whether 19 or not what happens in the back end. I'm saying that 20 would not be considered an award for her, correct? 21 A. Even in her current situation, that would not 22 have been considered an award. 23 Q. Okay. 24 A. If it were considered an award, my letter 25 would have said, "This is an early case," with no</p>	<p>180</p> <p>1 A. But, generally speaking, my -- you know, if 2 randomly you came to me, that sort of was my 3 understanding. 4 Q. Okay. And I believe Dr. Nikolova said that 5 never -- that conversation never occurred, and you 6 cannot contradict her on that from your testimony? 7 A. No, I can't. Yeah, I don't recall that. 8 Q. All right. 9 A. However, if you really want to know, you can 10 look at the e-mails; and if there was an e-mail from 11 Speitel's Office saying something or other -- I mean, if 12 there was an e-mail saying she should rescind, then we 13 would have had that conversation. 14 Q. Right. That would be helpful. And you're 15 saying that if that happened, there should be an e-mail; 16 and we should be able to see it? 17 A. Yes. 18 Q. Okay. And if it doesn't exist, then that's a 19 good indication it didn't happen? 20 A. Yes. 21 Q. Okay. But you're also not saying and 22 testifying that if there is no e-mail, that it didn't 23 happen? 24 A. No, because I don't remember having -- either 25 having or not having a conversation.</p>
<p>179</p> <p>1 mention of technical -- technically early. 2 Q. Okay. And we're not talking about your letter 3 because we're talking about the hypothetical of why -- 4 we're talking about the hypothetical of if she did or 5 did not rescind the probationary extension year, what 6 would be the practical effect on her years there and 7 lining that up with your prior testimony. That's -- 8 that's all I was doing, but it sounds like it's not that 9 straightforward to you. So maybe I'll just move along. 10 Okay. All right. So let me ask -- let 11 me ask it -- I'll ask you one more question, and then 12 we'll move on to some totally different topic. What do 13 you understand would be the re- -- okay. I think you've 14 probably answered this. The reason that Dr. Nikolova 15 would not rescind the probationary extension year is 16 because if she did, it would cause her to be in an 17 up-or-out situation when she went up for tenure, instead 18 of possibly having another shot sometime in the future? 19 MS. HILTON: Objection, form. 20 Q. (BY MR. NOTZON) Is that right? 21 A. That's my recollection in general. And for 22 this specific case, you know, we -- you know, I don't -- 23 I don't remember having conversations on what happened. 24 Okay? 25 Q. Okay.</p>	<p>181</p> <p>1 Q. Okay. Did Dr. Nikolova do anything or not do 2 anything to hurt her consideration for tenure after the 3 Step 1 vote was to proceed? 4 MS. HILTON: Objection, form. 5 A. Can you clarify or, you know, be more 6 explicit? 7 Q. (BY MR. NOTZON) I'm trying to be really, 8 really, really broad. Can you think of anything that 9 Dr. Nikolova did, which I would think would be in your 10 letter, that she did after -- because you wrote that 11 letter in October of '18, right, the end of October? 12 A. Yeah. 13 Q. So between the first-step vote of the Budget 14 Council in the Spring of '18, all the way through to the 15 date that you wrote your letter, did Dr. Nikolova do 16 anything that hurt her chances for promotion to tenure, 17 in your knowledge? 18 MS. HILTON: Objection, form. 19 A. In my knowledge, no, I don't think that 20 there's anything that happened that -- that would have 21 hurt her case. 22 Q. (BY MR. NOTZON) Okay. What is -- did 23 Dr. Nikolova ever communicate to you -- well, let me ask 24 it a different way because that's kind of silly. 25 Did Dr. Nikolova -- when was the first</p>



<p style="text-align: right;">182</p> <p>1 time you recall Dr. Nikolova complaining about being  2 treated differently because of gender or pregnancy?  3 MS. HILTON: Objection, form.  4 A. I -- I actually don't recall having such a  5 discussion. She may have. I don't -- I don't recall  6 that. And if -- I don't recall. Okay? I was going to  7 make an assumption on what she may have mentioned to me  8 when -- as a way of overcoming the negative vote, but I  9 don't recall a conversation.  10 Q. Okay. Do you recall -- I'm sorry?  11 A. Which doesn't mean it didn't happen. It's  12 just I just don't recall any such conversation.  13 Q. Okay. And so if you don't recall having a  14 conversation with Dr. Nikolova about that, would it be  15 true that you never talked to anybody above you or  16 outside of your department about Dr. Nikolova's  17 complaint to you; that follows, doesn't it?  18 MS. HILTON: Objection, form.  19 A. That's correct.  20 Q. (BY MR. NOTZON) Okay. So the next question:  21 Did Dr. Nikolova ever communicate with you in writing,  22 e-mail, or whatever, a complaint of being treated  23 differently because of her gender or pregnancy?  24 A. I don't recall that. What I recall is that  25 when we were talking about overcoming the Dean's first</p>	<p style="text-align: right;">184</p> <p>1 that, "Well, you know, from now on the Modified  2 Instructional Duties are going to be somewhat different  3 than they've been in the past."  4 I had raised the issue of, "Why now?"  5 And she also raised that issue, but I had raised it  6 before her.  7 Q. (BY MR. NOTZON) And I apologize. Some hot  8 rod went by and blasted its engine where I couldn't hear  9 what you said right at the beginning there.  10 MR. NOTZON: And so, Debbie, could you  11 read it back to me?  12 (The material was read as requested.)  13 Q. (BY MR. NOTZON) And when you just said that,  14 you were concerned that there may be some connection  15 with her complaint?  16 MS. HILTON: Objection, form.  17 A. No. My concern is: Why are you changing the  18 rules on us now? It was very basic. I mean, we have  19 run the Modified Instructional Duties in a particular  20 way since I became Department Chair. What happened now?  21 Q. (BY MR. NOTZON) So you're not suggesting that  22 there was any violation of Dr. Nikolova's rights.  23 You're just asking the question in the broad, general  24 sense of: I don't understand why there's a change now?  25 MS. HILTON: Objection, form.</p>
<p style="text-align: right;">183</p> <p>1 decision or, perhaps later, the presidential decision,  2 she did bring up the issue of getting lower course  3 instructor survey scores because she's pregnant; and she  4 alluded to some of these studies. That, I recall. I  5 mean, I can't tell you it happened on a particular day;  6 but I recall that -- you know, that that was brought up.  7 Q. Okay. And was that in conjunction with her  8 preparing this rebuttal to the dean's evaluation?  9 A. I imagine that it happened at that time. It  10 may have happened as we were preparing the next one, but  11 it very -- it could very well have been during the first  12 rebuttal.  13 Q. Okay. And any other time that you recall her  14 communicating to you that she had complaints of  15 disparate treatment as being a woman or being pregnant?  16 MS. HILTON: Objection, form.  17 Q. (BY MR. NOTZON) After that?  18 A. After -- after what?  19 Q. After the initial one that you're thinking you  20 remember.  21 MS. HILTON: Same objection.  22 A. After the initial -- so the only other time  23 that that came up is, my recollection would be, in the  24 Fall of 2019 after I had authorized her Modified  25 Instructional Duties and then being told by the College</p>	<p style="text-align: right;">185</p> <p>1 A. Yes. And at the end of the day, I think this  2 discussion lasted for about maybe 24, 48 hours -- I was  3 traveling at the time -- and the College then said,  4 "Fine. We'll go your way." And we were done.  5 Q. (BY MR. NOTZON) Okay. So the -- would it be  6 accurate that the College didn't answer your question;  7 they just stopped pushing back and went back to the way  8 that you understood it to have been before that?  9 MS. HILTON: Objection, form.  10 A. Yes, they essentially went back to the way we  11 had implemented it.  12 Q. (BY MR. NOTZON) Okay. But the first part of  13 my question: They didn't answer your question, "Why the  14 change now?" They never answered that?  15 A. Well, I got one answer, you know: We're  16 paying the professors; and so, therefore, they need to  17 do something. And, you know, if they work with the  18 senior design teams, they're not constrained to meet at  19 a particular time. They can move these meetings as they  20 see fit, depending on their condition. So they gave me  21 a number of reasons like that, which I, you know, didn't  22 necessarily buy; and the matter was resolved in 24 to 48  23 hours.  24 Q. And when you say you didn't buy that, it's  25 because those answers didn't offer anything new because</p>

<p>186</p> <p>1 that was already part of the initial existing program?</p> <p>2 MS. HILTON: Objection, form.</p> <p>3 A. Well, it's because we ran the program in a</p> <p>4 particular way from when I became Department Chair and</p> <p>5 implemented the program. Up to the Fall of 2019, no one</p> <p>6 ever came to me and said, you know, the professors</p> <p>7 should teach senior design, you know, and not just be</p> <p>8 given no teaching at all, you know, zero teaching and</p> <p>9 work on course development.</p> <p>10 Q. Okay. But my question particularly is: Their</p> <p>11 explanation to you did not provide you an explanation</p> <p>12 because it didn't provide any new situation or</p> <p>13 information that did not already pre-exist and was</p> <p>14 already dealt with in the prior existing Modified</p> <p>15 Instructional Duty benefit?</p> <p>16 MS. HILTON: Objection, form.</p> <p>17 Q. (BY MR. NOTZON) Right?</p> <p>18 A. Yeah. I mean, if they had told me, "There is</p> <p>19 some rule that changed at UT," or something like that,</p> <p>20 then, fine. And then I would, you know -- they</p> <p>21 essentially told me it was a new college rule; and, you</p> <p>22 know, in some sense you might think this is a new</p> <p>23 college rule. And maybe in 48 hours I convinced them</p> <p>24 not a good college rule, and they went back.</p> <p>25 Q. Okay.</p>	<p>188</p> <p>1 A. Well, I told you that we implemented a number</p> <p>2 of training sessions; and I told you that we had a</p> <p>3 particular faculty member that made inappropriate</p> <p>4 comments. He's not the only one. There have been other</p> <p>5 ones that also made such comments, but --</p> <p>6 Q. Okay. Other than you've already testified?</p> <p>7 A. No. What we -- what I observed and what</p> <p>8 people complained about was things along those lines,</p> <p>9 where inappropriate comments were made either to a</p> <p>10 person in a private setting so that there was no other</p> <p>11 person to witness that; but we corroborated it by --</p> <p>12 because, you know, we heard similar complaints from</p> <p>13 multiple people or questions or comments that were made</p> <p>14 in a public setting, like a faculty meeting, and which</p> <p>15 we felt were inappropriate.</p> <p>16 Q. Okay. Anything else? Any other complaints of</p> <p>17 gender disparate treatment?</p> <p>18 A. Give me an example of something that you're</p> <p>19 looking for; and I can tell you "yes" or "no." But</p> <p>20 that's something that comes to my mind.</p> <p>21 Q. I'm asking for your memory. I don't have a</p> <p>22 specific thing to -- to jog your memory. I'm asking you</p> <p>23 if you know of anything else other than what you've</p> <p>24 testified.</p> <p>25 A. No. I mean, the only thing is exactly what I</p>
<p>187</p> <p>1 A. Kudos to them on that.</p> <p>2 Q. Yes. Although, like you said before, you</p> <p>3 shouldn't get an award for doing something that you're</p> <p>4 already doing, right? You shouldn't get an award for</p> <p>5 doing what you already ought to be doing?</p> <p>6 MS. HILTON: Objection, form.</p> <p>7 A. Well, in this case, I would say the kudos is,</p> <p>8 you know, people come up with ideas and they make</p> <p>9 mistakes; and so kudos to someone who recognizes his or</p> <p>10 her mistake and say, "Yeah, yeah. I made a mistake,"</p> <p>11 and changed their mind, instead of sticking with the</p> <p>12 position.</p> <p>13 MS. HILTON: Robert, can we take a break</p> <p>14 in the next few minutes, please?</p> <p>15 MR. NOTZON: Yes, but let me -- let me</p> <p>16 think here if it's going to be now or in a few minutes.</p> <p>17 MS. HILTON: Okay.</p> <p>18 Q. (BY MR. NOTZON) Oh, and this is kind of along</p> <p>19 the lines of complaints. Did you ever raise -- well,</p> <p>20 before we get there, did anybody besides Dr. Kim and</p> <p>21 Dr. Nikolova ever raise issues of gender bias in the ECE</p> <p>22 while you were the Chair?</p> <p>23 A. Define what gender bias is.</p> <p>24 Q. Being treated differently because you're a</p> <p>25 woman for any -- any reason.</p>	<p>189</p> <p>1 testified. It's inappropriate comments, inappropriate</p> <p>2 statements made in class or in a public or in a private</p> <p>3 setting.</p> <p>4 Q. Did you ever raise a concern of gender bias</p> <p>5 yourself?</p> <p>6 A. In -- you know, you have that e-mail when I</p> <p>7 was asked about providing further justification for</p> <p>8 technically early or not technically early. I did raise</p> <p>9 that concern.</p> <p>10 Q. Okay. And I have that e-mail. I guess I</p> <p>11 might as well put it up and confirm that that's the</p> <p>12 e-mail you -- you have.</p> <p>13 MR. NOTZON: Ms. Hilton, is it okay to go</p> <p>14 through those -- those e-mails real quick; or do you</p> <p>15 need the break now?</p> <p>16 MS. HILTON: I mean, if we could take a</p> <p>17 break now, I would prefer that if possible.</p> <p>18 MR. NOTZON: No problem.</p> <p>19 MS. HILTON: Thanks.</p> <p>20 MR. NOTZON: I'm going to put up two</p> <p>21 e-mails in the chat that you're welcome to look at in</p> <p>22 the interim; and then, we'll talk about them when we</p> <p>23 come back.</p> <p>24 MS. HILTON: Sounds good. Thank you.</p> <p>25 THE REPORTER: We're going off the record</p>

<p style="text-align: right;">190</p> <p>1 at 4:27 p.m.  2 (Off the record from 4:27 to 4:44 p.m.)  3 THE REPORTER: We're back on the record  4 at 4:44 p.m.  5 Q (BY MR. NOTZON) Okay. Back from the break.  6 Professor, before we go on to Exhibits 25 and -- no, 24  7 and 25, I'd like to ask a little follow-up question. On  8 Modified Instructional Duty, are one of the things that  9 you -- you change out for a course is service?  10 MS. HILTON: Objection, form.  11 A. I don't -- I don't understand what you are  12 asking about. I mean, it says Modified Instructional  13 Duty, so it only applies to instruction. It's just that  14 I give teaching time off.  15 Q. (BY MR. NOTZON) Okay. Well, I was just  16 asking: If, instead of instructional duty, that the  17 replacement activity, is it sometimes service?  18 A. This is Modified Instructional Duty; so,  19 therefore, it has to be a different type of  20 instructional duty. And I explained earlier that I  21 would say that the person -- in consultation with the  22 person -- is going to work on a new course or, you know,  23 revising material for a course. It has to be  24 instructional.  25 Q. Thank you. I appreciate that clarification.</p>	<p style="text-align: right;">192</p> <p>1 then, there must have been something unusual that is not  2 captured in the student comments.  3 Q (BY MR. NOTZON) Would you agree that  4 Dr. Nikolova being pregnant at the time of that low  5 score of 3.7 would be an extenuating circumstance?  6 MS. HILTON: Objection, form.  7 A. Dr. Nikolova raised the issue with me or made  8 me aware of the fact that there is -- that she thinks  9 there's evidence of that out there. I haven't studied  10 any paper on the topic. I don't know whether these  11 studies have appeared in peer-reviewed journals and  12 others have looked at it and she didn't provide me with  13 evidence that, you know, this is -- that's what's  14 happening in -- in this case.  15 I also -- I also would say that her  16 scores -- it's not like she was having a 4.5 score, and  17 suddenly she dropped to 3.7. Her scores are about in  18 the same range for the courses that she taught. A 3.9  19 from a 4 isn't that different and 3.7 was the last one  20 and the comments seem to be consistent from semester to  21 semester.  22 So there was no reason for me -- I mean,  23 she would have to establish or you would have to  24 establish that there is, indeed, a correlation between  25 pregnancy in her case and the comments that -- and</p>
<p style="text-align: right;">191</p> <p>1 I didn't know that. That's why I asked the question.  2 In the -- on Exhibit 6, your letter, on  3 the Teaching portion, it doesn't look like you spent any  4 effort to try to explain Dr. Nikolova's lowest score of  5 3.7. Would you agree with that?  6 A. I listed the scores.  7 Q. Would you agree with my -- my question?  8 A. I didn't -- yes, I agree. I didn't try to  9 explain a high score or a low score.  10 Q. Okay. Do you recall with Professor Tiwari  11 that you, in fact, engaged in efforts to explain away  12 his low score of 3.5?  13 MS. HILTON: Objection, form.  14 A. I don't recall. So if you have my letter for  15 him or something, then, if you put it up and I can read  16 the letter and try to remember what happened.  17 Q (BY MR. NOTZON) Okay. Would there be a  18 reason why you would try to explain away one professor's  19 low score and not another's?  20 MS. HILTON: Objection, form.  21 A. Yes, there would be because in the case of  22 Nikolova, the explanation for her teaching standing,  23 whether she was fine or not, is accurately captured by  24 the students' comments.  25 If I did something for Professor Tiwari,</p>	<p style="text-align: right;">193</p> <p>1 scores that she got and that you see similar evidence  2 with other professors in ECE or elsewhere.  3 Q. Thank you for that answer.  4 My question was more targeted at the fact  5 that she was pregnant when teaching, not the fact that  6 there's the possibility that there's a discriminatory  7 downward trend on -- from students scoring her. Just  8 the simple fact that she was pregnant while teaching,  9 that that might be an extenuating circumstance?  10 MS. HILTON: Objection, form.  11 A. I don't believe it was an extenuating -- I  12 didn't have information that said that this is an  13 extenuating circumstance.  14 Q. (BY MR. NOTZON) Okay. What about the fact  15 that she was teaching the two required courses, high  16 registration numbers, which both are consistently known  17 to elicit or attract negative scoring?  18 MS. HILTON: Objection, form.  19 A. She was assigned to teach certain courses, and  20 I really can't comment on what you just said because I  21 would have to go and jog my memory by looking at the  22 scores of other professors and the kind of student  23 comments they're getting. Then we can do an apples-to-  24 apples comparison.  25 Q. (BY MR. NOTZON) You saw her rebuttal, right,</p>

<p>194</p> <p>1 where she talks about how she's the third-highest scorer 2 for that course out of over ten faculty members that 3 have taught that course over a period of ten or so 4 years?</p> <p>5 MS. HILTON: Objection, form.</p> <p>6 Q. (BY MR. NOTZON) Do you remember that?</p> <p>7 A. I saw her rebuttal. I saw her rebuttal more 8 than a year ago. You know, when I saw it, I mean, it's 9 a long time ago. I have not read her rebuttal again in 10 last few days or month. So I don't recall what was in 11 her rebuttal.</p> <p>12 Also, I don't remember what she -- what 13 her comparison pool was. If she picked ten years, well, 14 the course has changed dramatically over ten years; and 15 so going back ten years may not be relevant. I don't 16 know if she included lectures as well as professors 17 tenure track or tenured professors. That -- that would 18 make it different. So I can't comment on that.</p> <p>19 Q. Okay. The fact remains you didn't attempt to 20 ameliorate the negative connotation attached to 3.7, 21 correct?</p> <p>22 MS. HILTON: Objection, form.</p> <p>23 A. I didn't anchor on the 3.7, that's correct.</p> <p>24 And I explained, you know, in the next paragraph about 25 course materials and other things she's done.</p>	<p>196</p> <p>1 Q. Correct.</p> <p>2 A. Okay.</p> <p>3 Q. And it starts with your e-mail at the very 4 bottom of page 3.</p> <p>5 A. Okay.</p> <p>6 Q. I guess I would say temporally starts.</p> <p>7 A. Okay.</p> <p>8 Q. And this is October 2018. So you're three 9 days away from publishing your letter, correct?</p> <p>10 A. That's correct.</p> <p>11 Q. Okay. And you've received a question from the 12 Tenure and Promotion Committee; is that what you 13 understand?</p> <p>14 A. That's correct. And you made an incorrect 15 statement. I had published, you know, in your 16 terminology, my letter. My letter had been sent 17 earlier. And then as a result of that letter, I got the 18 questions from the Promotion and Tenure Committee; and 19 they were asking for additional information.</p> <p>20 Q. Well, so the letter that we looked at, 21 Exhibit 6, is dated October 29th.</p> <p>22 A. Yes, that letter is Version 2. That was not 23 the letter that was submitted initially to the Promotion 24 and Tenure Committee.</p> <p>25 Q. Okay. So there's a prior version that -- that</p>
<p>195</p> <p>1 Q. (BY MR. NOTZON) But you left the 3.7 without 2 any context to try to soften the negative impact of that 3 3.7, correct?</p> <p>4 A. It is not my --</p> <p>5 MS. HILTON: Objection, form.</p> <p>6 A. My duty is to report facts, and then people 7 would interpret them. The fact that she's pregnant is 8 not something that we've ever reported. You know, the 9 fact that, you know, something else happened is not 10 something that we factored in the past. I mean, it has 11 to be something dramatic for us to know that.</p> <p>12 (Exhibit 24 marked.)</p> <p>13 Q. (BY MR. NOTZON) Okay. Exhibit 24, which is 14 the document that starts with 25607.</p> <p>15 A. Okay. There is no exhibit anything on that 16 document, so.</p> <p>17 Q. Not yet.</p> <p>18 A. Okay.</p> <p>19 Q. I'm telling you that's the document I want you 20 to look at.</p> <p>21 A. Okay.</p> <p>22 Q. Have you looked at it?</p> <p>23 A. Yes. Is this the one that starts, "Yes, I am 24 in my office now. You can call me on my direct line -- 25 or you can call my direct line"?</p>	<p>197</p> <p>1 we have?</p> <p>2 A. I don't know if you have it or not, but there 3 is a prior version that led to this e-mail exchange.</p> <p>4 Q. Okay. What do you mean by zero correlation?</p> <p>5 What's the artificial metric? Do you see what I'm 6 talking about, what I'm asking about?</p> <p>7 A. Yes, that's the second paragraph?</p> <p>8 Q. Yes, in your October 26th 8:55 e-mail.</p> <p>9 A. Yes. That second paragraph was referring to 10 early, technically early, all of this discussion of 11 having to justify -- provide additional justifications 12 for early promotion. And my -- the paragraph -- the 13 first paragraph is the first paragraph in my original 14 letter. So the difference between the two letters is 15 that in the version that you showed me earlier, there 16 are a couple of sentences after "Her case would not be 17 early," blah, blah, blah.</p> <p>18 Q. Okay. And so artificial metric, you -- that 19 is referring to requiring some explanation that the six 20 years she's put in is not sufficient or is sufficient 21 or -- I just don't understand. When you say "artificial 22 metric," could you define that term?</p> <p>23 A. Artificial metric is the number of years in 24 service and, you know, all this discussion that we've 25 been having and, you know, that you've been asking about</p>

<p>198</p> <p>1 for --</p> <p>2 Q. Okay.</p> <p>3 A. -- I don't know how many times.</p> <p>4 Q. I won't take that personally unless you meant</p> <p>5 it personally.</p> <p>6 "...zero correlation with the metrics</p> <p>7 that the outside world, industry, and academia uses to</p> <p>8 evaluate impact and excellence in teaching and</p> <p>9 research." Could you explain what you mean to the</p> <p>10 uninitiated there?</p> <p>11 A. It means that when I measure your</p> <p>12 accomplishments, I'm going to measure them by the impact</p> <p>13 that your research is having, by where your students are</p> <p>14 going, by the funding that you've generated, by your</p> <p>15 ability to deliver excellence in teaching. I'm not</p> <p>16 going to judge that by the fact that you are in rank six</p> <p>17 years or seven years or five years or four years. Yes,</p> <p>18 there is an expectation that after a certain number of</p> <p>19 years, it's up or out; but that's what I meant.</p> <p>20 Q. Okay. So you're saying zero correlation that</p> <p>21 fixing the number of years as a paradigm doesn't</p> <p>22 correlate with good tenurable faculty?</p> <p>23 A. What I'm saying is we put somebody up for</p> <p>24 promotion. We said that it's technically early. That's</p> <p>25 the end of story.</p>	<p>200</p> <p>1 A. But it is my understanding that we put -- we</p> <p>2 ask permission from the Budget Council for putting her</p> <p>3 up for promotion. The Budget Council said yes; and,</p> <p>4 therefore, UT needs to consider her case because it went</p> <p>5 through the department and up to the college.</p> <p>6 My understanding may be wrong. He didn't</p> <p>7 point out to any sort of incorrect -- you know,</p> <p>8 something incorrect in my reasoning. So -- so I didn't</p> <p>9 buy his explanation.</p> <p>10 Q. So I'm accurate that you -- your personal</p> <p>11 experience, personal professional experience is that</p> <p>12 prior experience at another institution, combined with</p> <p>13 UT service amounting to six or more, is sufficient to</p> <p>14 warrant consideration -- technically early consideration</p> <p>15 of a candidate, correct?</p> <p>16 MS. HILTON: Objection, form.</p> <p>17 A. I -- I never got into such as argument; and</p> <p>18 I'm not going to get into such an argument with you</p> <p>19 because, as I mentioned, at any point in time any</p> <p>20 professor can ask to be, you know, considered for</p> <p>21 promotion. And as long as the Budget Council says,</p> <p>22 "Yes, we agree," then that process will go on.</p> <p>23 Now, that doesn't mean that the case will</p> <p>24 go through. So if UT doesn't think that the person</p> <p>25 should be promoted at this time, then UT makes that</p>
<p>199</p> <p>1 Q. And Dean Speitel disagrees with you, saying</p> <p>2 that service in and of itself is not enough; and you</p> <p>3 disagree with that?</p> <p>4 MS. HILTON: Objection, form.</p> <p>5 A. Where does he say that service by itself is</p> <p>6 not enough?</p> <p>7 Q. (BY MR. NOTZON) If you see in the e-mail that</p> <p>8 he responds to you.</p> <p>9 A. Yeah.</p> <p>10 Q. Read that. And I can point it out to you if</p> <p>11 you want, but I'm happy to have you read his entire</p> <p>12 response.</p> <p>13 A. Yeah. "Essentially, you are saying in your</p> <p>14 letter that it would not be early if we take her service</p> <p>15 into" --</p> <p>16 Q. Don't read it out loud. Just read it to</p> <p>17 yourself.</p> <p>18 A. (Witness silently reading document.)</p> <p>19 Fine. He's saying it's not in itself</p> <p>20 justification for promoting her now.</p> <p>21 Q. And you actually know that to be not the case</p> <p>22 from your prior experience, that you have said exactly</p> <p>23 that; and that was sufficient to obtain tenure for other</p> <p>24 faculty members, correct?</p> <p>25 MS. HILTON: Objection, form.</p>	<p>201</p> <p>1 decision.</p> <p>2 Q. Let me ask it a different way. When Dean</p> <p>3 Speitel says it is not in itself a justification for</p> <p>4 promoting her now, your personal experience finds that</p> <p>5 to be not true, correct?</p> <p>6 MS. HILTON: Objection, form.</p> <p>7 A. Could you repeat that? I'm not getting what</p> <p>8 you're saying.</p> <p>9 Q. (BY MR. NOTZON) In that sentence where he</p> <p>10 says, "It is not in itself a justification for promoting</p> <p>11 her now," you understand that to be not true because of</p> <p>12 your experience with other faculty where the prior</p> <p>13 service at another university was, of itself, the sole</p> <p>14 mitigating factor?</p> <p>15 MS. HILTON: Same objection.</p> <p>16 A. No, that's not my understanding. My</p> <p>17 understanding is that because we asked the Budget</p> <p>18 Council for permission to put the person up for</p> <p>19 promotion and the Budget Council said, "Yes," then</p> <p>20 that's what initiates the process. It has nothing to do</p> <p>21 with service in another institution or no service in</p> <p>22 another institution.</p> <p>23 Q. So if the Budget Council relied on their</p> <p>24 having achieved six years with the prior experience</p> <p>25 achieved, would that change your answer?</p>

<p style="text-align: right;">202</p> <p>1 MS. HILTON: Objection, form.</p> <p>2 A. If the Budget Council did not agree to</p> <p>3 counting the number of years or...</p> <p>4 Q. (BY MR. NOTZON) No, if that's what they based</p> <p>5 their agreement on.</p> <p>6 A. The Budget Council makes its assessment based</p> <p>7 on the case. Some people may look at service and</p> <p>8 service at a prior institution, and they come up with a</p> <p>9 particular decision. Others will look at the case,</p> <p>10 which is precisely the metrics that I was precisely</p> <p>11 referring to in my e-mail.</p> <p>12 Q. Didn't you provide the exact same explanation</p> <p>13 for Dr. Dimakis going up that you provided for</p> <p>14 Dr. Nikolova for going up?</p> <p>15 A. Yes, I did.</p> <p>16 Q. And wasn't that explanation providing the</p> <p>17 explanation going up technically early?</p> <p>18 MS. HILTON: Objection, form.</p> <p>19 A. That explanation was to -- I mean, basically,</p> <p>20 this is not an explanation. It just says: This case is</p> <p>21 technically early because of this particular fact. It's</p> <p>22 not a justification for going up for promotion. I'm</p> <p>23 just stating a fact, and I stated the same fact for</p> <p>24 Nikolova and Dr. Dimakis.</p> <p>25 Q. (BY MR. NOTZON) So in the next e-mail you</p>	<p style="text-align: right;">204</p> <p>1 saying that they -- they had the same justification --</p> <p>2 or Alex Dr. Dimakis had the same justification for going</p> <p>3 up?</p> <p>4 A. No. I'm saying I don't want to compare to</p> <p>5 these two people, to Alex Dimakis and Deji Akinwande,</p> <p>6 because both of them were superstars and that if I did</p> <p>7 compare her to them, I would anchor on superstars and</p> <p>8 that even if she met the bar, because now the bar is</p> <p>9 raised so high, she would not make it.</p> <p>10 Q. You wouldn't want to compare her to them if</p> <p>11 she's to have a chance is what you're saying?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And you sent -- you sent that e-mail on</p> <p>14 October 26th, that one, at 6:31 p.m.; but the one on the</p> <p>15 26th at 8:00 a.m. is the first one, 8:55 a.m., correct?</p> <p>16 A. This is what I see from the document that you</p> <p>17 sent me. I don't remember what e-mails I sent, you</p> <p>18 know, on Friday. So I, obviously, don't know what</p> <p>19 happened on, you know, October 26th at 8:00 a.m.</p> <p>20 Q. I'm asking you to confirm that the e-mail has</p> <p>21 a heading that says you sent your first e-mail at</p> <p>22 8:55 a.m. on the 26th of October 2018.</p> <p>23 A. Yes, that's what it says.</p> <p>24 Q. Okay. Let's go ahead and look at the next</p> <p>25 document, which is 7476. That's going to be Exhibit 25.</p>
<p style="text-align: right;">203</p> <p>1 say, "My justification is no different than the</p> <p>2 justification I gave for Alex" -- which is Dr. Dimakis,</p> <p>3 correct?</p> <p>4 A. Yes.</p> <p>5 Q. -- "four years ago. I don't want to compare</p> <p>6 these two cases." Why don't you want to compare these</p> <p>7 two cases.</p> <p>8 A. I didn't want to compare these two cases</p> <p>9 because Alex Dimakis was a superstar. He had started an</p> <p>10 entire new field. He had letters that he brought a</p> <p>11 fresh breath or he's only innovator in information</p> <p>12 theory. He was an excellent teacher. If I made that</p> <p>13 comparison, that essentially would have torpedoed</p> <p>14 Dr. Nikolova's case.</p> <p>15 Q. So when you say, "But, of course, Bill and</p> <p>16 Greg" -- this would be Powers and Fenves, correct?</p> <p>17 A. Yes.</p> <p>18 Q. -- "separately told me that year that Alex" --</p> <p>19 Dimakis -- "and Deji" -- what's Deji's last name?</p> <p>20 A. Akinwande.</p> <p>21 Q. Okay. Is he also within your department?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. -- "were the two strongest cases across</p> <p>24 all of UT that year." So what you're saying is you're</p> <p>25 not trying to compare Dr. Nikolova to them. You're just</p>	<p style="text-align: right;">205</p> <p>1 (Exhibit 25 marked.)</p> <p>2 A. Okay. And that's the one that says, "I also</p> <p>3 received this e-mail from Ahmed"?</p> <p>4 Q. (BY MR. NOTZON) Yes.</p> <p>5 A. Okay.</p> <p>6 Q. And I think this is the one you were referring</p> <p>7 to. If you look at this one -- and this one, it's the</p> <p>8 second e-mail on the first page from you, October 26th</p> <p>9 at 9:00 a.m., so five minutes after the other one we</p> <p>10 just saw in Exhibit 24?</p> <p>11 A. Yes.</p> <p>12 Q. And this is from you to Dean Speitel; and it</p> <p>13 says, "Not to be forwarded." Why did you not want this</p> <p>14 e-mail to be forwarded?</p> <p>15 A. Because, essentially, this e-mail is telling</p> <p>16 the dean and associate dean that, "You're having a</p> <p>17 problem" -- I mean, I perceived a discrepancy between</p> <p>18 what I think the implication of what you're asking me to</p> <p>19 do by providing this extra justification and what the</p> <p>20 Provost told us to be doing; or that, "What you're</p> <p>21 forcing us to do, essentially, would mean that we won't</p> <p>22 be able to implement what the Provost is asking us to</p> <p>23 do."</p> <p>24 Q. And it raises implications of gender bias?</p> <p>25 MS. HILTON: Objection, form.</p>



<p>206</p> <p>1 A. I did also say hope that this question isn't a 2 reflection of gender bias. 3 Q. Right. Where would the gender bias be? 4 A. The gender bias be -- would be because when 5 Alex went up, I didn't get such a request; and when 6 Nikolova went up, I got the request. 7 Q. Okay. And is it accurate that Dr. Dimakis was 8 at six years with the combined service, just like 9 Dr. Nikolova was? 10 A. I don't recall. 11 Q. Okay. Do you recall if Dr. Dimakis was 12 technically early or truly early? 13 MS. HILTON: Objection, form. 14 A. I don't recall and cannot even guess because 15 he was a superstar, so. 16 Q. (BY MR. NOTZON) So it could be truly early? 17 A. Yes. 18 Q. So -- and you said that you were telling the 19 Associate Dean and the Dean; but you're not. Your 20 actually just telling the Associate Dean, right? 21 A. This e-mail is to the Associate Dean. 22 Q. And it says not to be forwarded. So if you 23 wanted to include the Dean, you could have; but you 24 didn't? 25 A. Well, yes.</p>	<p>208</p> <p>1 This is not extra work. 2 MR. NOTZON: Object as nonresponsive. 3 Q. (BY MR. NOTZON) My question is: He's saying 4 you're just put out by the extra work. And I'm asking 5 you if it's true. Is it your testimony that, in fact, 6 all you're concerned about is doing extra work; and 7 you're not concerned with countermanning the Provost's 8 strategy and the possibility of a gender bias? 9 MS. HILTON: Objection, form. 10 Q. (BY MR. NOTZON) That's what you're really 11 concerned about here? 12 MS. HILTON: Same objection. 13 A. I am concerned about the fact that I was asked 14 to provide justification that I -- extra justification 15 beyond what I have in the letter. The other two topics 16 are topics that we dealt with separately. So he is 17 right in saying that the current topic of discussion is 18 whether I should write another letter or not. The other 19 two topics he knew we were going to take in some other 20 forum. This is not pressing. I wasn't asked to deal 21 with the situation in, like, 24 hours or 48 hours or, 22 you know, whatever. 23 Q. So when he says basically that's what the 24 issue is, do you not see that as a diminishment or 25 disparagement of your concern for the Provost's strategy</p>
<p>207</p> <p>1 Q. And in contravention of your "not to be 2 forwarded message," he immediately forwards it -- well, 3 actually, he waits until the afternoon, right? He waits 4 until the afternoon to forward it to Dean Wood? 5 A. Apparently. 6 Q. And he says you seem put out by being asked to 7 further justify an early promotion; and that's not what 8 you're saying, is it? 9 A. No. He -- he -- you know, I -- I don't 10 recall; but, you know, I may have given him a call. 11 He's seeing these e-mails. I'm pushing back strongly, 12 you know, saying, "Why are you asking me to do this 13 extra work? I don't want to do this extra work. I've 14 finished my letter; it's done." So, yes, I am upset 15 that I'm being asked to provide further justification. 16 Q. Oh, so your only concern is the extra work; it 17 has nothing to do with the countermanning the Provost's 18 strategy or the potential for gender bias? That's not 19 what you're concerned about? 20 A. The con- -- running against the Provost is a 21 concern, but the fact that I'm being asked to justify it 22 or not justify it is not the topic of this discussion. 23 I mean, they're forcing me to add something to my 24 letter. That's what I'm objecting to. The other 25 aspects are aspects that would be based separately.</p>	<p>209</p> <p>1 and the potential for gender bias being in existence 2 here? 3 MS. HILTON: Objection, form. 4 A. I'm not going to opine on what he had in his 5 mind when he wrote this. He may have written it 6 quickly. I don't know. I don't know what was in his 7 mind. I don't know what -- what he was up to. I wasn't 8 aware of this e-mail until this case came about. So I 9 really can't say anything about this. I know that we 10 continued those discussions, and I just cannot speculate 11 on his state of mind. 12 Q. Okay. 13 A. You need to ask him. 14 Q. So tell me what happened after this e-mail 15 that you sent at 9:00 a.m. on October 26th regarding the 16 Provost's strategy and the potential for gender bias. 17 Tell me all the conversations that you had with Dean 18 Speitel, Dean Wood, or anybody else above you in 19 administration. 20 MS. HILTON: Objection, form. 21 A. Three things happened. I added a couple of 22 sentences to my letter. And so this is why my letter -- 23 and I can go back to it here -- was dated October 29. 24 This is October 26. So three days later I added those 25 two sentences to my letter.</p>



<p style="text-align: right;">210</p> <p>1 The discussion about what the Provost is  2 asking us to do is something that's lasted for a long  3 time. We had a long discussion about that that lasted  4 several months and on whether these types of  5 justification and forcing them is good or bad; and that,  6 I don't know that that got resolved.</p> <p>7 The discussion about the gender bias was  8 resolved because, first of all, it was an N of 2. There  9 were only two people, one male, one female.</p> <p>10 And in other discussions and other  11 actions of both Speitel and Wood, they have shown that  12 they were extremely supportive of women; and they were  13 extremely supportive of all of the measures and training  14 that we implemented. So that resolved that particular  15 issue.</p> <p>16 Q. Who were you having the conversations with  17 about the Provost's strategy of hiring assistant  18 professors with experience and their interest in being  19 considered for tenure technically early?</p> <p>20 MS. HILTON: Objection, form.</p> <p>21 A. I had those discussions with the Dean. It was  22 raised in a Department Chairs' meeting with other  23 Department Chairs in the presence of the Dean. It  24 happened in multiple forums, both public and private;  25 and it continued into -- well into the recruiting season</p>	<p style="text-align: right;">212</p> <p>1 not enough justification," you know, the scenario that  2 played out with Dr. Nikolova would have played out  3 again.</p> <p>4 Q. Did that happen?</p> <p>5 A. We didn't have such a case. So, you know,  6 you'd have to see other departments -- if it happened in  7 other departments; but in our case, there was no such  8 case.</p> <p>9 Q. Okay. So do you see that as the policy  10 changing?</p> <p>11 MS. HILTON: Objection, form.</p> <p>12 A. Well, what do you mean by do I see this as the  13 policy changing?</p> <p>14 Q. (BY MR. NOTZON) Good question. Do you see  15 that as the policy changing from what happened before  16 Dr. Nikolova went up to what is happening now?</p> <p>17 MS. HILTON: Objection, form.</p> <p>18 A. I can't pass a judgment on that because it  19 could very well be that in the intermediate years  20 between Dimakis and Nikolova there were other faculty  21 members in a similar situation from other departments  22 who were going through that process and the department  23 chairs were asked to provide further justification  24 beyond just those two sentences. I have no -- zero  25 information.</p>
<p style="text-align: right;">211</p> <p>1 the next year.</p> <p>2 Q. (BY MR. NOTZON) To what end?</p> <p>3 MS. HILTON: Objection, form.</p> <p>4 A. As I said, it wasn't resolved.</p> <p>5 Q. And what does that mean to you?</p> <p>6 A. What it means to me is that the concerns we  7 had about the policy -- I mean, the policy wasn't  8 changed, I mean; and, you know, the Dean didn't say,  9 "Yeah, this was a mistake. I should have used another  10 argument" or "Yes, you know, we'll change; we'll try to  11 address this." There was no resolution.</p> <p>12 Q. So when you say there's no resolution; the  13 policy didn't change, what does that mean? Does that  14 mean that faculty -- from your experience, faculty that  15 have achieved six years from prior service and current  16 service are still available to be considered for tenure  17 technically early?</p> <p>18 MS. HILTON: Objection, form.</p> <p>19 A. What that means is if there was another person  20 the following year going up for promotion, let's say in  21 2019, and I had to write a letter for that person and I  22 would used exactly the paragraph that you have in the  23 other exhibit about technic- -- well, you know,  24 "Counting the other years, this would not be an early  25 case." If they would have come back and said, "That's</p>	<p style="text-align: right;">213</p> <p>1 Q. Let me ask it a better way because I'm not  2 asking if you know what happened elsewhere.</p> <p>3 From your knowledge, do you have any  4 knowledge that the policy changed from what you knew to  5 exist with Dimakis to what you were then told after you  6 put your letter up for Dr. Nikolova?</p> <p>7 MS. HILTON: Objection, form.</p> <p>8 A. For me to ans- -- policies change. Policies  9 are not aimed at a department or an individual. So for  10 me to say that a policy has changed, I really need to  11 know what happened between -- in the intermediate years.</p> <p>12 MR. NOTZON: Objection, nonresponsive.</p> <p>13 Q. (BY MR. NOTZON) My question isn't whether the  14 policy changed or not. Okay? Please listen to my  15 question. My question is: It's true, is it not, that  16 you don't have any information which would confirm for  17 you that there was any change in the policy between the  18 time that Dimakis went up and the time after you  19 submitted your first draft of the letter for Nikolova,  20 correct?</p> <p>21 MS. HILTON: Objection, form.</p> <p>22 A. I was not informed prior to submitting my  23 letter for Nikolova that there was a change of policy.</p> <p>24 Q. (BY MR. NOTZON) Okay. And, in fact, you  25 weren't told that there was a change of policy after you</p>

<p style="text-align: right;">214</p> <p>1 submitted your letter to Nikolova; you were just told 2 that it was unacceptable? 3 MS. HILTON: Objection, form. 4 A. That is not correct because -- 5 Q. (BY MR. NOTZON) Where does it say -- where 6 does it say in that e-mail that there's a policy change? 7 A. Well, an e-mail -- that e-mail is not all the 8 discussions we had about the topic. If that policy was 9 a Nikolova special, I would not have had this discussion 10 with the Dean. We would not have had the discussion at 11 the Chairs' meeting. We would not -- that would not 12 have impacted our ability to recruit faculty members. 13 MR. NOTZON: Objection, nonresponsive. 14 Q. (BY MR. NOTZON) I didn't say it was a 15 Nikolova policy, did I? I didn't. I said that there's 16 nothing in the writing to you telling you that your 17 justification for Nikolova is insufficient, is there? 18 MS. HILTON: Objection, form. 19 A. Did you read the e-mails from the very 20 first -- I mean, in the first exhibit, the e-mail coming 21 from Sanjay Shakkottai? 22 Q. (BY MR. NOTZON) Answer my question. 23 A. Well, to answer your question, I am asking 24 whether you read that e-mail. That e-mail says, "Please 25 provide further justification."</p>	<p style="text-align: right;">216</p> <p>1 e-mails does not have the word "policy change," yes, 2 that trail of e-mails doesn't have the word "policy 3 change." 4 Q. Okay. And it comes after you submitted your 5 Nikolova letter? 6 MS. HILTON: Objection, form. 7 A. The question comes after I submitted my 8 Nikolova letter. 9 Q. (BY MR. NOTZON) And this is the first time 10 that you've received a request for additional 11 information related to justifying a technically early 12 applicant for tenure, correct? 13 MS. HILTON: Objection, form. 14 A. I can't say that for sure. I mean, I know 15 that for Dimakis that wasn't the case. That's sort of 16 what I remember. I don't remember what happened in 17 other similar cases. For example, you mentioned Sujay 18 Sanghavi. I don't remember what happened then. And the 19 fact that you get questions after submitting your letter 20 is not unusual. 21 Q. (BY MR. NOTZON) You know that Sujay Sanghavi 22 went up before Dimakis? 23 A. Yes, I do. 24 Q. So it couldn't have happened after 25 Dr. Dimakis?</p>
<p style="text-align: right;">215</p> <p>1 Q. Where are you talking about? 2 A. Well, in 7476. I don't know what exhibit that 3 is because I don't have exhibit numbers. 4 Q. Exhibit 25. 5 A. So at the very bottom, there is an e-mail from 6 Sanjay Shakkottai that says, "Dear Jerry, the CSE P&amp;T 7 Committee has the following question" blah, blah, blah. 8 "The committee requests that the ECE Chair provide 9 additional justification for the timing of the promotion 10 application of Dr. Nikolova." 11 Q. That's a request. That's not a policy -- 12 statement of a policy change. 13 A. That's a request. 14 MS. HILTON: Objection, form. 15 (Simultaneous speakers.) 16 Q. (BY MR. NOTZON) That doesn't say there's a 17 policy change. They're just making a question to you. 18 MS. HILTON: Objection, form. 19 Q. (BY MR. NOTZON) Correct? 20 MS. HILTON: Same objection. 21 A. They're asking me to do something. 22 Q. Yes, without a statement that there's a policy 23 change, correct? 24 MS. HILTON: Objection, form. 25 A. Well, if you're asking me, this trail of</p>	<p style="text-align: right;">217</p> <p>1 MS. HILTON: Objection, form. 2 A. I don't recall who else it might have 3 affected. 4 Q. (BY MR. NOTZON) Okay. 5 A. But I know I remember that it didn't happen 6 for Dimakis. That's what I remember. 7 Q. Okay. And you can't name anybody that was 8 technically early between Dimakis and Nikolova that 9 you -- that came from your department, correct? 10 MS. HILTON: Objection, form. 11 A. I don't remember any. 12 Q. (BY MR. NOTZON) Okay. Besides this change of 13 justifying the technically early consideration of 14 Nikolova compared to what you experienced with Dimakis, 15 was there any other change that you observed in the 16 Nikolova tenure consideration process? 17 MS. HILTON: Objection, form. 18 A. Not that I recall -- well, actually, I take my 19 answer back. So the other change, which was unusual, 20 was for the Dean to let me know in November that she was 21 going to recommend that Nikolova was not going to be 22 promoted and asking me to speak with Nikolova. 23 Q. (BY MR. NOTZON) Okay. That had never 24 happened before? 25 A. That had never happened before.</p>

<p>218</p> <p>1 Q. Let me ask if the Dean had ever denied 2 tenure -- or had the Dean ever talked to you about her 3 proposed denial of tenure -- well, let me -- I'm sorry 4 about the confusing question. Let's start over. 5 Did the Dean, while she was Dean and you 6 were Chair, ever deny tenure to a candidate from your 7 department other than Dr. Nikolova? 8 A. Yes. 9 MS. HILTON: Objection, form. 10 A. Yes. The year before she denied tenure to a 11 male faculty member. 12 Q (BY MR. NOTZON) Okay. So that's -- I guess 13 that was why I asked the question. When she did that, 14 did she come to you to ask you to talk to that faculty 15 member to -- about that potential denial? 16 MS. HILTON: Objection, form. 17 A. No, she didn't. 18 Q (BY MR. NOTZON) Okay. So that's why you're 19 talking about it being unusual? 20 A. That's correct. 21 Q. Okay. Anything else that you can recall? 22 A. No, that's -- you know, those are the two 23 things that I remember that sort of stuck in my mind. 24 Q. Okay. And what did she ask you to talk to 25 Dr. Nikolova about?</p>	<p>220</p> <p>1 MS. HILTON: Objection, form. 2 A. I asked her to take a look at the dossier so 3 that she can see all what's in it and the letter of the 4 Dean in particular and then make up her mind or decide 5 to write a rebuttal. 6 Q (BY MR. NOTZON) Did she -- you and her have 7 any conversations about your letter and the lack of 8 glowing recommendation that would come with a stronger 9 tenure letter? 10 A. As I stated earlier, she, Dr. Nikolova, saw my 11 letter before it was ever sent to the college. So she 12 saw the first version of my letter. She probably 13 provided some feedback. So she knew what was in the 14 letter. 15 Q. Do you think, as an Assistant Professor, that 16 she would know where -- in other words, wouldn't you 17 agree that she is an uninitiated person in the process 18 of writing tenure letters? 19 MS. HILTON: Objection, form. 20 A. There is an expectation -- and that, I 21 believe, was clearly stated in the Dean's letter -- that 22 Dr. Nikolova would also look at what was mentioned in 23 not my letter but, you know, some of the facts that I 24 allude to in my letter, like the student comments and 25 that in her teaching statement would have responded to</p>
<p>219</p> <p>1 A. She explained to me that she doesn't want to 2 lose Dr. Nikolova and that given that she's recommending 3 that Dr. Nikolova not be promoted and given that the 4 Presidential Committee can make a recommendation to deny 5 tenure and make that her out year, that she would 6 recommend that Dr. Nikolova consider withdrawing her 7 case so that we don't run this risk. 8 Q. Okay. And did you talk to Dr. Nikolova about 9 that? 10 A. I did. 11 Q. And tell me about that conversation. 12 A. I mean, I don't recall the precise 13 conversation; but I relayed to her what the Dean had 14 told me. And I relayed to her the fact that if she's 15 denied promotion, that could be her terminal year. I 16 remember that we had a question and we wanted to confirm 17 that that was the case. So Dean Wood was going to talk 18 to an Associate Provost; and she did and came back 19 confirming that, yes, the Promotion and Tenure -- the 20 Presidential Committee could make that the out year for 21 Nikolova. 22 Q. Okay. And did you tell her any of the things 23 that you felt about her dossier being weak or not -- you 24 know, on the fence or any of those comments that you 25 made?</p>	<p>221</p> <p>1 those comments. 2 So we expect an Assistant Professor who 3 is ready to be promoted to an Associate Professor to 4 understand what are the expectations when it comes to 5 teaching and research; and if there are gaps that others 6 are going to pick up, that that person, in their 7 statement, would address these gaps. 8 MR. NOTZON: Objection, nonresponsive. 9 Q. (BY MR. NOTZON) My question is: Don't you 10 understand that Dr. Nikolova would be a novice and not 11 understand the nuance of -- the nuances of your letter, 12 as you testified in introducing it, that it has these 13 less-than-obvious statements that only the initiated 14 would identify as being unflattering? 15 MS. HILTON: Objection, form. 16 A. As I just answered, when someone who is ready 17 to be promoted from Assistant to Associate Professor 18 would -- should know what the expectations are and 19 should be able to see the weaknesses. My letter stated 20 simple facts. 21 We're probably the only department where 22 the Department Chair shares his or her letter with those 23 coming up for promotion. Normally, those going up for 24 promotion don't see the Department Chair's letter. 25 And the year after you're promoted, you</p>

<p>222</p> <p>1 actually do attend promotion cases and you vote on these 2 cases. So there's nothing magical on, you know, 3 September 1st of your promotion where suddenly you know 4 what it means -- what it takes to be promoted to an 5 Assistant Professor and you're able to understand gaps 6 in teaching or research or a strong case. You know, 7 this is something that you're supposed to have 8 understood and grown over time. 9 You are an adult. We're asking you to 10 teach students with certain expectations from you, and 11 that's exactly what we expect from Nikolova or someone 12 else. 13 Q. So I take it from your testimony that you 14 would agree you did not walk her through your letter and 15 identify the weaknesses; you expected her to do that on 16 her own? 17 MS. HILTON: Objection, form. 18 A. It is not my obligation to show her my letter 19 and it's not my obligation to walk her through anything 20 and it's not my obligation to tell her how to respond to 21 specific statements. It is her obligation to understand 22 and review the student comments, for example, to be able 23 to respond to them from year to year and to address them 24 in her teaching statement. 25 MR. NOTZON: Object as nonresponsive.</p>	<p>224</p> <p>1 you've testified to today, correct? 2 MS. HILTON: Objection, form. 3 A. Well, I don't recall saying anything else 4 about Dean Fenves advising me to do. So if you can jog 5 my memory and tell me what he had told me that I don't 6 know, I would be appreciative. 7 Q. (BY MR. NOTZON) If you don't remember your 8 testimony, that's -- that's fine. 9 There was a question -- oh, let me -- let 10 me -- there was a question about the obtaining the Texas 11 A&amp;M University student scores and I believe you blamed 12 Dr. Nikolova for having access to her file and not 13 recognizing that she needed to fix the absence of that 14 information instead of the Department having the 15 responsibility to do that. Do you remember that 16 question? 17 MS. HILTON: Objection, form. 18 A. I stated earlier that UT will look only at the 19 information coming from UT. So the Department didn't 20 have an obligation to seek these letters or this 21 information and Dr. Nikolova had access to her dossier 22 as it was being formed and she could have said, "I 23 really want these to be in" and we would have sent an 24 official request to get them in. 25 Q. (BY MR. NOTZON) You do recall having a</p>
<p>223</p> <p>1 Q. (BY MR. NOTZON) That's not my question. I 2 didn't ask if you have an obligation. I asked: Is it 3 true that you did not walk her through your letter and 4 identify the issues that she needs to respond to, 5 correct? 6 MS. HILTON: Objection, form. 7 A. I will respond again: It's not my obligation 8 to do so, and I've never done it. 9 Q. (BY MR. NOTZON) Thank you for at least 10 answering it in a shorter fashion and eventually, 11 instead of initially and then providing information. I 12 would appreciate it if you do it that way next time. 13 A. Let me add: I've never done it with anyone, 14 not just with Dr. Nikolova. Let me be clear on what I 15 mean by my answer. 16 Q. Thank you. 17 But you happily took Dean Fenves' 18 tutelage on how to write a letter, didn't you? 19 MS. HILTON: Objection, form. 20 A. I -- that last sentence in the letter is 21 important. It sends a clear message to the committee; 22 and, yes, I took that into account in writing the 23 letter. 24 Q. (BY MR. NOTZON) That's not the only thing 25 that Dean Fenves advised you on in the letter that</p>	<p>225</p> <p>1 conversation with Dr. Nikolova in the Spring of 2018 2 when there was discussion between you and her about 3 preparing her dossier that you had indicated that 4 getting those scores was on the task list and that you 5 and the Department would obtain them? 6 MS. HILTON: Objection, form. 7 A. I don't recall the content of our 8 conversation; but if that was on the task list, 9 Dr. Nikolova is supposed to make sure that her dossier 10 and everything on the task list was done. We're the 11 only Department that offers assistance to Professors who 12 are going up for promotion, like, in assisting her; but 13 at the end of the day, it's her responsibility to make 14 sure that any information she wants to be in there is 15 included and all the official information is included. 16 Q. So why do you -- do you have any 17 understanding as to why, then, CCAFR would say that it's 18 the Department's responsibility to make sure that the 19 dossier's complete? 20 MS. HILTON: Objection, form. 21 A. So CCAFR stated their opinion; and as I 22 recall -- and, again, this was, you know, two years ago 23 or three years ago, President Fenves responded to that 24 and explained how CCAFR got a higher collection of their 25 statement incorrect.</p>

<p style="text-align: right;">226</p> <p>1 (Exhibit 26 marked.)</p> <p>2 Q (BY MR. NOTZON) Go ahead and look at</p> <p>3 Exhibit 26 that I just put in the chat. It's the CCAFR</p> <p>4 report with the interview to you -- or of you and the</p> <p>5 appendix.</p> <p>6 A. Do you want me to read the whole thing, or</p> <p>7 what do you want me to do?</p> <p>8 Q. I don't, unless you want to. Your interview</p> <p>9 is, I believe, on page 12 and 13 of 18 pages. And if</p> <p>10 you look at the top, the first bullet on page 13, that's</p> <p>11 where you say that Dr. Nikolova had access to her file</p> <p>12 and she should -- it's her responsibility to make sure</p> <p>13 it's complete.</p> <p>14 A. Where is that?</p> <p>15 Q. I said the first bullet on page 13.</p> <p>16 A. Yes.</p> <p>17 Q. And do you recall that -- I mean, I can point</p> <p>18 you in the CCAFR report, but do you recall that they had</p> <p>19 ruled that it was the Department's responsibility, not</p> <p>20 hers? Or do you want me to point that to you?</p> <p>21 A. They ruled -- I mean, they ruled that; but</p> <p>22 then, the President responded to that and pointed out</p> <p>23 that they incorrectly ruled that.</p> <p>24 Q. I heard you the first time. I just was asking</p> <p>25 about this particular document.</p>	<p style="text-align: right;">228</p> <p>1 A. I -- I would have to read the whole thing; and</p> <p>2 this is, again, so long time ago that I don't remember</p> <p>3 what we discussed or not discussed.</p> <p>4 Q. Go ahead. It's two -- a page and a half.</p> <p>5 A. Even if I read the page and a half, I wouldn't</p> <p>6 be able to confirm or not confirm because this is so a</p> <p>7 long time ago that I -- I just don't remember what</p> <p>8 happened in the meeting.</p> <p>9 Q. Go ahead and read the page and a half, and</p> <p>10 then you can answer.</p> <p>11 A. (Witness silently reading document.)</p> <p>12 Q. So I'm going ask you -- sorry to interrupt</p> <p>13 your reading -- but I'm going to ask you either to</p> <p>14 confirm that that's an accurate transcription of your</p> <p>15 answer; or if you don't recall what your answers were,</p> <p>16 if, in reading these, they convey what you believe to be</p> <p>17 true, sitting here today. Thank you.</p> <p>18 A. (Witness silently reading document.)</p> <p>19 So I don't recall whether that was</p> <p>20 exactly what I said, but what's in there is what I've</p> <p>21 been telling you and what I likely would have said.</p> <p>22 Q. Okay. So if I asked you those questions,</p> <p>23 those would be your answers today?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Thank you.</p>
<p style="text-align: right;">227</p> <p>1 A. That particular document is a group of</p> <p>2 Professors opinions.</p> <p>3 Q. I'm not asking what the document is, sir. I'm</p> <p>4 just asking you if you agree that they found that, or do</p> <p>5 you need me to point it out to you?</p> <p>6 A. Point it out to me; and then, yes, this is</p> <p>7 what they -- you know, so point it out to me.</p> <p>8 Q. Okay. Look at page 6 in Item Number 7.</p> <p>9 A. Okay. They say "the subcommittee believes."</p> <p>10 Q. I don't need you to read it. I just need you</p> <p>11 to confirm if I said -- what I said was correct?</p> <p>12 A. Can you repeat what you said?</p> <p>13 Q. That CCAFR had found it was the Department's</p> <p>14 responsibility, not Dr. Nikolova's, to make sure that</p> <p>15 her dossier was complete?</p> <p>16 A. It said that it believed. It didn't say:</p> <p>17 This is the case, and it contravenes to rule X, Y, and Z</p> <p>18 in the UT process.</p> <p>19 Q. Okay. So that's a "yes"?</p> <p>20 A. It's not a "yes." It says it believes that.</p> <p>21 Q. Right, it believes. Okay.</p> <p>22 Oh, going back to page 12 and 13, there's</p> <p>23 an interview of you. Do you agree that that's an</p> <p>24 accurate representation of your answers to their</p> <p>25 questions?</p>	<p style="text-align: right;">229</p> <p>1 (Exhibit 27 marked.)</p> <p>2 Q. (BY MR. NOTZON) There's an Exhibit 27 now</p> <p>3 that I put up there -- that's going to be Exhibit 27 --</p> <p>4 in the chat, the next document. And it starts with the</p> <p>5 e-mail from Dr. Nikolova on February 19th, on page 4 of</p> <p>6 7, about the -- her case and making her denial of tenure</p> <p>7 issue public?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And you recall receiving this e-mail?</p> <p>10 A. Yes, I received it, along with others.</p> <p>11 Q. Okay. And did you know Dr. Nikolova was going</p> <p>12 to send it before she sent it?</p> <p>13 A. I don't recall that I knew that ahead of time.</p> <p>14 Q. Okay. Did you have any conversations with her</p> <p>15 about this e-mail?</p> <p>16 A. I don't recall having conversations with her</p> <p>17 about the e-mail.</p> <p>18 Q. Okay. Dean Speitel and Dean Wood seem very</p> <p>19 concerned that you quell the unrest in your department</p> <p>20 as quickly as possible; is that correct?</p> <p>21 MS. HILTON: Objection, form.</p> <p>22 A. That I -- were concerned that I quell the</p> <p>23 unrest?</p> <p>24 Q. (BY MR. NOTZON) Yes.</p> <p>25 A. They were -- they wanted me to address</p>

<p style="text-align: right;">230</p> <p>1 misinformation that might have been in the e-mail that 2 she sent. 3 Q. Okay. So, yeah, in your e-mail of 4 February 19th at 8:50, on the top of page 3 -- 5 A. Yes. 6 Q. -- it says, "I will" -- "My original plan was 7 to talk about the points that Jerry," which is Dean 8 Speitel, "mentions below. I will probably also need to 9 rebut incorrect statements that she made in her e-mail." 10 And what were those incorrect statements? 11 A. It was so long ago that I'd have to read her 12 e-mail; and so if you want me to do this, I'm happy to 13 do it. 14 Q. Okay. 15 A. And I'll have to very carefully read her 16 e-mail. So I might take a long time. Do you want me to 17 do that? 18 Q. Probably. Let me look before you do that. 19 In the next e-mail -- so as you go up to 20 page 2 -- Dean Speitel says something about Kim, and 21 that would the Dr. Kim that left UT; is that correct? 22 MS. HILTON: Objection, form. 23 A. I am lost now. Which page? 24 Q. (BY MR. NOTZON) The bottom of 2, the e-mail 25 following yours about incorrect statements.</p>	<p style="text-align: right;">232</p> <p>1 says, "It went fine. I'm glad I had it because of the 2 misinformation her e-mail has generated across the 3 department." So there's misinformation that you say is 4 in the e-mail, and now you're saying there's 5 misinformation generated across the department. Are 6 those the same misinformation, or you don't know? 7 MS. HILTON: Objection, form. 8 A. I would have to go back and read the e-mail. 9 I have a vague memory of a couple of issues that came up 10 in my meetings with the assistant and associate 11 professors; but, again, if you want me to read the 12 e-mail, I'll gladly do it. 13 Q. (BY MR. NOTZON) Okay. Let me -- before you 14 go there, let me put up another document and see if this 15 is the stats that Dean Speitel had sent you and whether 16 it's the corrected one or the uncorrected one. So this 17 will be Exhibit 28. 18 (Exhibit 28 marked.) 19 A. I wouldn't be able to tell you whether this is 20 the corrected or not corrected because I don't have 21 these numbers memorized. 22 Q. (BY MR. NOTZON) Okay. But it's one or the 23 other? 24 A. It is one or the other, yes. 25 Q. Okay. Before you go on to read the -- let me</p>
<p style="text-align: right;">231</p> <p>1 A. Yes, this would be about Dr. Miryung Kim. 2 Q. Okay. And do you recall if Dr. Nikolova was 3 referring to her or referring to someone else? 4 A. Again, I -- I'd have to go back and read the 5 e-mail; and if you're going to ask me questions, then I 6 have to take my time to read the e-mail. 7 Q. Okay. Let's keep going up the chain towards 8 the top of the document, which means we're going down -- 9 forward in time. And you ask, "Is this ECE or CSE," and 10 that's the data that Dean Speitel had sent you? 11 A. That's correct. 12 Q. And he admitted that it was CSE, which is the 13 College of Engineering, right? 14 A. That's correct. 15 Q. Which you're saying, "I'd rather have the ECE 16 because it's our department that's at issue," correct? 17 A. That's correct. 18 Q. And then as you keep going up, he says the EC 19 is broken out. "The numbers are small, so I would be 20 cautious..." And then he says -- he sends it again and 21 says, "I made a mistake." Do you remember what the 22 mistake was? 23 A. No, I don't. 24 Q. Okay. And then the very top e-mail, the last 25 e-mail in chain from you to -- just to Dean Speitel, it</p>	<p style="text-align: right;">233</p> <p>1 put another e-mail up, Exhibit 29. 2 (Exhibit 29 marked.) - 3 A. Okay. 4 Q. (BY MR. NOTZON) Let me know when you're 5 ready. 6 A. Yeah, I opened the e-mail -- I opened the -- I 7 mean that's the one that starts, "Thank you, Evdokia"? 8 Q. Yes, uh-huh. It's a fairly short document. 9 Go ahead and read it, please. 10 A. (Witness silently reading document.) 11 Okay. 12 Q. So looking at her e-mail to you, the first in 13 the chain, December 12 at 4:35, do you understand that 14 this is the first time that you can recall that she is 15 raising concerns about pregnancy or childbirth? 16 A. As I mentioned to you, I don't know exactly 17 when it was. We had a discussion at some point in time 18 during that process about her concern that the CIS 19 scores would be -- you know, would go down or could go 20 down when -- when the teacher is pregnant. 21 Q. Did you ever see her -- you understand that 22 since this is December 2018, this is in the period of 23 time in which she's preparing a rebuttal to Dean Wood's 24 evaluation -- I mean, yeah, decision -- no, 25 recommendation?</p>



<p style="text-align: right;">234</p> <p>1 A. Well, the e-mail, if you read it, says, "I'm 2 planning to submit a rebuttal in a couple of days this 3 Friday." 4 Q. Right. So that's a "yes"? 5 A. Yes, she's submitting a rebuttal two days 6 later. 7 Q. Okay. And -- and she's asking you to -- for 8 your advice? 9 A. Yes, she's asking me for my advice. 10 Q. And did you see -- before she sent in the 11 rebuttal, did you see the proposed pregnancy/gender 12 issues that she's talking about? 13 MS. HILTON: Objection, form. 14 A. I don't recall seeing them. 15 Q. (BY MR. NOTZON) Did you have a discussion 16 about them before she sent in her rebuttal? 17 MS. HILTON: Objection, form. 18 A. The only thing, as I mentioned before, that I 19 recall was a discussion around CIS scores. 20 Q. (BY MR. NOTZON) And was the discussion about 21 CIS scores related to the rebuttal? 22 MS. HILTON: Objection, form. 23 A. I don't remember whether it was related to the 24 rebuttal or as an explanation for her scores. I -- I 25 honestly don't remember.</p>	<p style="text-align: right;">236</p> <p>1 representations of your communications with 2 Dr. Nikolova? 3 A. Well, they encapture one particular set of 4 communications with Dr. Nikolova. 5 Q. Right. I'm just asking if you question the 6 authenticity or if these were created and manipulated to 7 reflect something that you believe to be untrue or if 8 you think that they appear to be accurate. 9 A. For me to say, "Yes, these are absolutely 10 true; and there's absolutely no modifications," I would 11 have to go and look and see if I can even find these on 12 my phone since I've changed phones since then. So I 13 presume they are, but that's a presumption. 14 Q. Well, I'd like to read them and see if -- and 15 I appreciate you're not being able to one hundred 16 percent guarantee. I'm not asking for that. I'm asking 17 if you can look at them and see, like with your answer 18 to the CCAFR interview, if you understand these 19 statements to be in line with what you would have said 20 or if you believe they misrepresent what you would have 21 said at those times. 22 A. (Witness silently reading document.) 23 Yeah, they seem like what I would have 24 said. 25 Q. Okay. If we look at the bottom there,</p>
<p style="text-align: right;">235</p> <p>1 Q. (BY MR. NOTZON) Okay. And would it also be 2 that you don't remember whether you advised her to say 3 something or not to say something about gender or 4 pregnancy or other kind of bias in her rebuttal? 5 MS. HILTON: Objection, form. 6 A. I have absolutely no recollection of what my 7 advice to her would have been or might have been. 8 Q. (BY MR. NOTZON) Did you provide any written 9 proposed changes to her rebuttal? 10 A. I don't recall whether I did or did not. 11 Q. Okay. I'll put up another exhibit. 12 MR. NOTZON: Exhibit 29; is that right? 13 No, 30. 14 THE REPORTER: 30. 15 (Exhibit 30 marked.) 16 (Brief discussion off the record 17 regarding exhibits.) 18 Q. (BY MR. NOTZON) Let me know when you're 19 ready. 20 A. I am. 21 Q. Okay. Do you recall these texts? 22 A. I don't recall them, but I know that I did 23 text Professor Nikolova at various times to provide 24 advice. 25 Q. Do you see these texts as being accurate</p>	<p style="text-align: right;">237</p> <p>1 which are the latest in time, there's one from you on 2 March 22nd, 2019? 3 A. Uh-huh. 4 Q. Do you recall what is -- what you're referring 5 to here? 6 A. The one at 10:51 p.m.? 7 Q. Yes, sir. 8 A. Yes, that would be referring to the letter 9 that she wrote to the President. 10 Q. Okay. I believe the deadline for that may 11 have been the next day; is that right? 12 A. I don't recall when the deadline was, but the 13 deadline typically is in March. 14 Q. Okay. So you start with, "Your arguments and 15 case are perfect," and then you advise her on how she 16 should approach things, et cetera. What do you recall 17 about her arguments and case? 18 A. I don't recall much about her arguments and 19 case. I recall that I advised her to find someone who 20 had a similar profile and use that to make her case 21 instead of arguing that, "No, my teaching is great," 22 when others feel it's not great. It's just to find a 23 comparable and say, "Okay. Why did you make this 24 decision when you made a different decision?" 25 Q. And do you recall that she found anyone?</p>



<p style="text-align: right;">238</p> <p>1 A. Yes, she found Heidari or something,  2 "Heidari," you know, a professor in Petroleum.  3 Q. Anybody else?  4 A. Heidari is the one that I remember.  5 Q. Okay.  6 A. Maybe she did find other people. I don't  7 remember.  8 Q. Did -- did you review Dr. Heidari's data to  9 see if, in fact, Dr. Nikolova compared positively to  10 her?  11 MS. HILTON: Objection, form.  12 A. I did review what Dr. Nikolova sent me about  13 Heidari, and I -- I think it's also in one of my texts  14 here. I said that, you know, that her case appears  15 weaker. I cannot -- I couldn't say anything beyond  16 appear or appears because I am not in Petroleum  17 Engineering. I cannot assess someone in Petroleum  18 Engineering, and that goes for both teaching and  19 research.  20 Q. Okay. Let me put up another document.  21 (Exhibit 31 marked.)  22 Q. (BY MR. NOTZON) This is 31.  23 A. For some reason, it doesn't...  24 Q. You were saying?  25 A. For some reason I'm unable to open this. So</p>	<p style="text-align: right;">240</p> <p>1 search to find these documents.  2 Q. (BY MR. NOTZON) Yeah. I'm saying: Absent  3 any other documents that would turn up, you would agree  4 that this would be, then, the document that was -- you  5 were responding to?  6 MS. HILTON: Objection, form.  7 A. You're speculating, and I can't answer a  8 hypothetical.  9 Q. (BY MR. NOTZON) Okay. Go ahead and read  10 the -- Exhibit 27, the 18961 e-mail from Dr. Nikolova;  11 and, if you could, identify the misinformation in that  12 e-mail for us.  13 A. So you will have to be patient.  14 Q. I have the capacity.  15 A. Okay.  16 (Witness silently reading document.)  17 Q. Oh, you know what? Let me -- I'll ask you  18 about one other document before you go on that  19 excursion.  20 This was marked as Exhibit 11 before.  21 Would you rather see it as a spreadsheet, as one? Maybe  22 that would be easier instead of having to scroll back  23 and forth. I think I can do that. There it is as a  24 spreadsheet so you don't have to go back and forth.  25 A. Okay.</p>
<p style="text-align: right;">239</p> <p>1 maybe I need to close some of the other ones.  2 Q. Are you getting overloaded? Yeah, I'm not  3 surprised.  4 A. It starts, "I'm working on my letter"?  5 Q. Yes.  6 A. Okay.  7 Q. And you see this is sent on March 22nd at  8 4:29 p.m., so before your text at 10-something that day.  9 And this appears to be her draft comparison of her file  10 to Dr. Heidari's file; is that correct?  11 MS. HILTON: Objection, form.  12 A. Yeah, that appears to be what she's getting  13 at.  14 Q. (BY MR. NOTZON) Okay. And so would you --  15 does this look like what you had been -- would have been  16 responding to in your texts?  17 A. I don't recall. She may have sent me other  18 documents. Maybe she sent me the entire final rebuttal.  19 I have no recollection.  20 Q. Okay. Absent the existence of any other  21 documents or paper trail of her sending you anything  22 else, you would agree that this would be what she sent  23 you earlier that day?  24 MS. HILTON: Objection, form.  25 A. No, I don't recall; and I would have to do a</p>	<p style="text-align: right;">241</p> <p>1 Q. Okay. So did you play a role in deciding the  2 reasons for pay and pay raises from 2013 to 2020?  3 A. Yes, I did.  4 Q. Okay. Could you explain why Dr. Nikolova is  5 the second lowest paid person in the department, despite  6 the multiple individuals that have less experience than  7 her?  8 MS. HILTON: Objection, form.  9 A. The reason is precisely the reasons that we  10 discussed earlier. When we make the salary  11 recommendations, we take into account the performance of  12 the person, what his or her research or activity has  13 been, what his or her teaching has been; and if your  14 performance is poor, you're going to get poor raises.  15 Q. It's accurate that all assistant professors  16 have the same duties and responsibilities and  17 expectations, correct?  18 MS. HILTON: Objection, form.  19 A. That is correct.  20 Q. (BY MR. NOTZON) Okay. And so the only  21 difference is their performance. Is that what you're  22 saying?  23 MS. HILTON: Objection, form.  24 A. That's correct. The merit raises reward good  25 performance.</p>

<p style="text-align: right;">242</p> <p>1 Q. (BY MR. NOTZON) Okay. And those -- the</p> <p>2 performance is based on all the criteria we've been</p> <p>3 talking about, research, funding, service, teaching, all</p> <p>4 that?</p> <p>5 MS. HILTON: Objection, form.</p> <p>6 A. That's correct.</p> <p>7 Q (BY MR. NOTZON) Is it also based on the</p> <p>8 annual review of exceeds or meets expectations?</p> <p>9 A. It's very loosely correlated with that because</p> <p>10 these annual reviews tend to be on the higher side.</p> <p>11 There are years where everybody in the department got</p> <p>12 "exceeds expectations," and then we had to go back to</p> <p>13 the committee. So that information is typically not</p> <p>14 given a lot of weight in these evaluations.</p> <p>15 Q. Okay. It's not the rating so much as the</p> <p>16 detail supporting the rating?</p> <p>17 MS. HILTON: Objection, form.</p> <p>18 A. The rating is -- yes, the rating does not</p> <p>19 enter into the equation.</p> <p>20 Q (BY MR. NOTZON) Okay. At all or you just use</p> <p>21 it as a guidepost, but you look below it to see what the</p> <p>22 details are?</p> <p>23 MS. HILTON: Objection, form.</p> <p>24 A. It depends on the committee and the year. If</p> <p>25 the committee one year has almost everybody at exceeds</p>	<p style="text-align: right;">244</p> <p>1 That's their particular view. There are several other</p> <p>2 people in the chain that also will opine on whether a</p> <p>3 particular person exceeds or meets expectations, no</p> <p>4 different than promotion, where the Budget Council has a</p> <p>5 vote; the Department Chair has a vote, et cetera. The</p> <p>6 same story here.</p> <p>7 Q. So was that a "yes" or a "no"?</p> <p>8 A. Can you repeat the question?</p> <p>9 Q. Can someone getting a meets expectations get a</p> <p>10 raise, a bigger raise, than someone with an exceeds</p> <p>11 expectations on the same year?</p> <p>12 MS. HILTON: Objection, form.</p> <p>13 A. Well, who is giving the meets expectations and</p> <p>14 exceeds expectations? Are you referring to the meets</p> <p>15 expectations and exceeds expectations rating of the</p> <p>16 committee; or are you referring to meets expectations</p> <p>17 and exceeds expectations that the Department Chair,</p> <p>18 Dean, Associate Dean, and Provost are providing?</p> <p>19 Q (BY MR. NOTZON) I'm saying what the final</p> <p>20 rating is for the year. Whoever -- you know, whatever</p> <p>21 results in that rating of a meets expectations and an</p> <p>22 exceeds expectations for those two faculty members for</p> <p>23 the year, can somebody get a better raise as a meets</p> <p>24 expectations on their record than somebody who got an</p> <p>25 exceeds expectations for that same year?</p>
<p style="text-align: right;">243</p> <p>1 expectations or has people who have published no paper</p> <p>2 as exceeds expectations, then, you can imagine that that</p> <p>3 year the ratings will be not even used as a signpost.</p> <p>4 They would be completely disregarded.</p> <p>5 Q (BY MR. NOTZON) Okay. What about a --</p> <p>6 someone with a meets expectations, would they ever get a</p> <p>7 higher raise than someone who had an exceeds</p> <p>8 expectations for that year?</p> <p>9 MS. HILTON: Objection, form.</p> <p>10 A. It could possibly happen because, again, the</p> <p>11 committee might think it's okay for you to be a good</p> <p>12 teacher and do no research or be a good researcher and</p> <p>13 very poor at teaching, but that's not the view that the</p> <p>14 Dean or Associate Dean or Provost or I would take. So</p> <p>15 we look at the actual evidence.</p> <p>16 Q (BY MR. NOTZON) I don't understand.</p> <p>17 Oh, so you're saying somebody could get</p> <p>18 an exceeds expectations and somebody else could get a</p> <p>19 meets expectations; and, yet, you and the other people</p> <p>20 deciding on the raises could say that the meets</p> <p>21 expectations actually performed better than the exceeds</p> <p>22 expectations?</p> <p>23 MS. HILTON: Objection, form.</p> <p>24 A. The committee is a committee. The committee</p> <p>25 is a group of professors who come up with their ratings.</p>	<p style="text-align: right;">245</p> <p>1 A. There is no final rating. There is the</p> <p>2 Committee's rating. And, then, the other ratings are</p> <p>3 the Department Chair, Dean, Associate Dean, Provost; and</p> <p>4 those are what factor in the promotion.</p> <p>5 The UT rules say that the rating coming</p> <p>6 from the Committee is what's provided to the faculty</p> <p>7 member. The faculty member sees the raises. If they</p> <p>8 have a complaint about the raises, they come to me; and</p> <p>9 I explain to them why they got that particular raise.</p> <p>10 Q. Okay. So if -- so if you're giving a meets</p> <p>11 expectations and exceeds expectations, you're not going</p> <p>12 to give a bigger raise to a meets expectations than an</p> <p>13 exceeds expectations upon your rating. Is that your</p> <p>14 testimony?</p> <p>15 A. That's correct. Yes, that is correct. So if</p> <p>16 I give a meets expecta- --</p> <p>17 Q. You might do that -- you might do that if it's</p> <p>18 just from the committee?</p> <p>19 A. Well, the committee is -- recommendation is</p> <p>20 one input that I look at; but I also form my own opinion</p> <p>21 and I have my own rating. The Dean also looks at the</p> <p>22 information, has her own rating. Presumably, the</p> <p>23 Provost does the same thing.</p> <p>24 I make my recommendation based on my</p> <p>25 assessment. The Dean then approves or does not approve</p>

<p style="text-align: right;">246</p> <p>1 my recommendation based on her assessment, and then the</p> <p>2 Provost approves or does not approve the recommendation</p> <p>3 coming from the College based on the Provost's</p> <p>4 assessment.</p> <p>5 Q. Have you ever given a bigger raise to someone</p> <p>6 who got a meets expectations from the committee than</p> <p>7 somebody who got an exceeds expectations from the</p> <p>8 committee?</p> <p>9 A. I don't recall whether I did or did not.</p> <p>10 Q. Do you recall the salary equity assessment</p> <p>11 that was made recently, last year or so?</p> <p>12 MS. HILTON: Objection, form.</p> <p>13 A. So in the last year I wasn't at UT, so I don't</p> <p>14 know what happened. I did not follow that. So if</p> <p>15 something happened in 2020 or something happened after</p> <p>16 December '19, then, you know, I haven't followed that.</p> <p>17 Q. (BY MR. NOTZON) Okay. So, then, my next</p> <p>18 question is: Prior to your leaving, were you aware of a</p> <p>19 salary equity assessment having been done?</p> <p>20 A. I don't recall that.</p> <p>21 Q. Okay. Just to further jog your memory, in</p> <p>22 case, it would have been a process by which salaries</p> <p>23 were, quote, unquote, "equalized" or assessed an equity</p> <p>24 assessment to even people out for whatever reason. Do</p> <p>25 you recall that ever happening?</p>	<p style="text-align: right;">248</p> <p>1 THE WITNESS: So, you know, I will</p> <p>2 appreciate getting a five-minute break but then coming</p> <p>3 back and read it; and that should be on the record as</p> <p>4 part of the time that you're asking me to spend on this</p> <p>5 case.</p> <p>6 MR. NOTZON: If you want to.</p> <p>7 THE WITNESS: Okay.</p> <p>8 MR. NOTZON: All right.</p> <p>9 THE WITNESS: Thank you.</p> <p>10 THE REPORTER: We're going off the record</p> <p>11 6:19 p.m.</p> <p>12 (Off the record from 6:19 to 6:25 p.m.)</p> <p>13 THE REPORTER: We're back on the record</p> <p>14 6:25 p.m.</p> <p>15 Q. (BY MR. NOTZON) I'm going to mute myself,</p> <p>16 Professor. So let me know when you're ready.</p> <p>17 A. (Witness silently reading document.)</p> <p>18 Okay.</p> <p>19 Q. I'm back. Go ahead.</p> <p>20 A. So what do you want me to do?</p> <p>21 Q. So the question I had asked is: What</p> <p>22 misinformation were you referring to in your e-mail from</p> <p>23 her e-mail? And I'll probably ask you some other</p> <p>24 questions since you've read the e-mail.</p> <p>25 A. So we can start with, "The Dean's</p>
<p style="text-align: right;">247</p> <p>1 MS. HILTON: Objection, form.</p> <p>2 A. No, I don't. I may have been told about a</p> <p>3 committee that's looking into this, but I don't -- I</p> <p>4 don't recall anything specific.</p> <p>5 Q. (BY MR. NOTZON) Okay. All right. Well, go</p> <p>6 ahead and look at that e-mail. Do you mind us going off</p> <p>7 the record?</p> <p>8 THE WITNESS: Sure. Go ahead.</p> <p>9 MR. NOTZON: Okay. And just let me know</p> <p>10 when you're ready.</p> <p>11 THE WITNESS: Okay. Well, if you're</p> <p>12 going to go off the record, then, I will also take a</p> <p>13 restroom break.</p> <p>14 MR. NOTZON: Oh, please.</p> <p>15 THE WITNESS: I will turn the monitor on</p> <p>16 so you'll know that I'm on the record again -- well,</p> <p>17 what do you mean by "off the record"?</p> <p>18 MR. NOTZON: Yeah. We're stopping.</p> <p>19 We're going away. We're going to take a break, you</p> <p>20 know.</p> <p>21 THE WITNESS: I mean, if you want me to</p> <p>22 read it, it should be on the record, because you're</p> <p>23 asking --</p> <p>24 MR. NOTZON: We can do that. We can do</p> <p>25 that, too, yeah.</p>	<p style="text-align: right;">249</p> <p>1 recommendation 'do not promote' came unexpected and in</p> <p>2 sharp conflict with the prior recommendations,</p> <p>3 particularly for its reasoning, contradicting what I was</p> <p>4 told in annual reviews and in my third rear review in</p> <p>5 terms of what I should work on to have a successful</p> <p>6 tenure case."</p> <p>7 Her third-year review, which happened in</p> <p>8 the same year she was promoted, pointed out that she</p> <p>9 needed to publish more; and it talked about a lack of</p> <p>10 service, a lack of engagement with the Department. That</p> <p>11 letter, she knew, usually is written in the most</p> <p>12 positive manner to assist candidates. The fact that the</p> <p>13 language was in the letter was a big sign for her and</p> <p>14 for me that this was going to be an issue.</p> <p>15 In her annual reviews, we talked about</p> <p>16 going up for promotion earlier than that. We did not go</p> <p>17 up for promotion. The year that we went up for</p> <p>18 promotion, we could not tell the Budget Council ahead of</p> <p>19 time whether she was going to be included in the batch</p> <p>20 that was going to be voted on in early May or late April</p> <p>21 because we did not know whether her papers were going to</p> <p>22 be accepted or not. So that is misinformation that's</p> <p>23 totally incorrect.</p> <p>24 Q. Wait. So you're -- are you pointing to</p> <p>25 something in particular in the e-mail, or are you just</p>

<p>250</p> <p>1 responding --</p> <p>2 A. You asked -- you asked me to say what is</p> <p>3 misinformation or incorrect statements.</p> <p>4 Q. Yes. If you could point --</p> <p>5 (Simultaneous speakers.)</p> <p>6 Q. You said you were going to go through it.</p> <p>7 Could you point to what you're talking about?</p> <p>8 A. It's just what I told you, the sentence that</p> <p>9 says, "what I was" -- "...contradicting what I was told</p> <p>10 in annual reviews and in my third-year review in terms</p> <p>11 of what I should work on to have a successful tenure</p> <p>12 case."</p> <p>13 Q. Okay. Gotcha. You're saying all of the</p> <p>14 testimony is saying that what she said there is</p> <p>15 incorrect?</p> <p>16 A. What she said there is incorrect.</p> <p>17 Q. Okay. Thank you.</p> <p>18 A. And she knew it was incorrect.</p> <p>19 Q. Okay. That's your testimony. I understand.</p> <p>20 A. Okay. Then, she talks about the President and</p> <p>21 the Dean having a very different set of promotion</p> <p>22 standards from the Department; and there is no evidence</p> <p>23 of the Dean or President having different promotion</p> <p>24 standards than the Department. They look at the same</p> <p>25 information. They value the teaching. They value the</p>	<p>252</p> <p>1 Wouldn't it be true that if the Dean and the President</p> <p>2 were improperly motivated and they weren't treating her</p> <p>3 like everybody else, that could be a reason why they</p> <p>4 raised the bar differently or had the bar differently</p> <p>5 from the Department, correct?</p> <p>6 MS. HILTON: Objection, form.</p> <p>7 A. Your original question and what I've been</p> <p>8 going through is where there is misinformation or</p> <p>9 incorrect statements in her e-mail, right?</p> <p>10 (Simultaneous speakers.)</p> <p>11 Q. (BY MR. NOTZON) Professor, I'm asking a</p> <p>12 question in following up with what you just said; and</p> <p>13 it's not -- it's a new question. So a new question</p> <p>14 requires a new answer, not pointing to my original</p> <p>15 question. Do you not want to answer my question?</p> <p>16 MS. HILTON: Objection, form.</p> <p>17 A. If you make your question clear, I'm happy to</p> <p>18 answer it. If it's a hypothetical, then, I'm not going</p> <p>19 to answer it. So your choice.</p> <p>20 Q. (BY MR. NOTZON) My questions are my choice,</p> <p>21 that's true; and your answers are your choice.</p> <p>22 It was your hypothetical that I was</p> <p>23 asking a question about. You stated in answer to my</p> <p>24 question that their bar could be higher -- the Dean and</p> <p>25 the President's bar could be higher than the</p>
<p>251</p> <p>1 research. They value the funding. And that's what they</p> <p>2 base their decision on.</p> <p>3 Q. Do they set the bar the same as the</p> <p>4 Department?</p> <p>5 A. Different people in the department may have</p> <p>6 different bars, you know. It is not one plus one equals</p> <p>7 two. I mean, it's not that kind of a statement. Okay?</p> <p>8 So -- but if -- if there was a discrepancy between what</p> <p>9 the Dean and the President had in terms of bars and what</p> <p>10 the Department had in terms of a bar, then, our failure</p> <p>11 rate would have been nearly 100 percent because,</p> <p>12 essentially, we would be, you know, promoting people at</p> <p>13 random from the department, like flipping a coin. Maybe</p> <p>14 it lands this way; maybe it lands that way. That wasn't</p> <p>15 the case. There's no evidence of that.</p> <p>16 Q. Unless the Dean and the President are treating</p> <p>17 her differently than other faculty members. That would</p> <p>18 be the outlier that would render your hypothesis</p> <p>19 incorrect?</p> <p>20 MS. HILTON: Objection, form.</p> <p>21 A. There is no evidence of that, and Nikolova did</p> <p>22 not provide any evidence of being treated differently in</p> <p>23 this e-mail or --</p> <p>24 MR. NOTZON: Objection, nonresponsive.</p> <p>25 Q. (BY MR. NOTZON) Just, my question is:</p>	<p>253</p> <p>1 Department's bar. And you're saying -- you answer to</p> <p>2 that was: No, because then a hundred percent of our</p> <p>3 cases would be wrong.</p> <p>4 And I said: Unless their bar in the</p> <p>5 instance of Dr. Nikolova was changed for some other</p> <p>6 reason. And that could be -- that could render your</p> <p>7 assumption that if they changed their bar or if their</p> <p>8 bar was different, it would be tanking a hundred percent</p> <p>9 of your cases. And I said: Isn't that correct? And</p> <p>10 you have not answered that question.</p> <p>11 A. My response to you was not a hypothetical. If</p> <p>12 the -- if the bar is different between the Department</p> <p>13 and the Dean and the President, then, putting up a</p> <p>14 promotion case would be random.</p> <p>15 If you have an electric device that uses</p> <p>16 120 or 110 volts and you plug it in 220, it's going to</p> <p>17 burn. Okay? So I am not -- I'm not -- this is not a</p> <p>18 hypothetical. There are facts in front of me, and those</p> <p>19 facts do not support your hypothetical.</p> <p>20 Q. You're assuming that they didn't have a</p> <p>21 different bar when they denied -- when the Dean and the</p> <p>22 President denied Dr. Nikolova, you're assuming they</p> <p>23 didn't have a different bar, correct?</p> <p>24 MS. HILTON: Objection, form.</p> <p>25 Q. (BY MR. NOTZON) Because you don't know?</p>

<p>254</p> <p>1 MS. HILTON: Objection, form.</p> <p>2 A. I am -- I am referring to the sentence in her</p> <p>3 e-mail, Number 1, "The Dean and/or President seem to</p> <p>4 have a very different set of promotion standards from</p> <p>5 the department."</p> <p>6 MR. NOTZON: Objection, nonresponsive.</p> <p>7 Q. (BY MR. NOTZON) I'm not asking you about that</p> <p>8 sentence. I'm not asking you about that e-mail. I'm</p> <p>9 asking you about your statement that they didn't have a</p> <p>10 different bar because the evidence you provide for that</p> <p>11 assumption, that conclusion, is that a hundred percent</p> <p>12 of your cases would be denied. Okay? I'm asking you a</p> <p>13 follow-up question to that.</p> <p>14 A. Okay.</p> <p>15 Q. All right.</p> <p>16 A. What's the follow-up question, that they</p> <p>17 changed the bar for Nikolova?</p> <p>18 Q. You don't know what their bar is, correct?</p> <p>19 MS. HILTON: Objection, form.</p> <p>20 A. No, I know what their bar is because I got to</p> <p>21 read the Dean's letter; and I saw the arguments that she</p> <p>22 made and how she made these arguments. She didn't say</p> <p>23 that -- well, she didn't say that her argument was, oh,</p> <p>24 we were fine with 3.7 for everyone; and, then, suddenly,</p> <p>25 we're not fine with Dr. Nikolova. She didn't say that,</p>	<p>256</p> <p>1 MS. HILTON: Objection, form.</p> <p>2 A. No, it's not because the points that the Dean</p> <p>3 raised in her letter -- so the final conclusion is</p> <p>4 different; but the points that the Dean raised in her</p> <p>5 letter are points that are in my letter, are in the</p> <p>6 dossier, and --</p> <p>7 Q. And are not treated the same and are not</p> <p>8 explained away. Actually, don't -- the part about the</p> <p>9 teaching scores, it's not the same. The part about the</p> <p>10 TAs, it's not the same. The part about anchoring the</p> <p>11 3.7 as being something that you were going to focus on</p> <p>12 and saying only 16.5 percent of the professors have that</p> <p>13 score when she's actually got a higher -- in the higher</p> <p>14 percentage of the professors, no, it's not the same,</p> <p>15 correct?</p> <p>16 MS. HILTON: Objection, form.</p> <p>17 A. The information in the letter are the same.</p> <p>18 They are looking at the same facts. The fact that the</p> <p>19 Dean reached a different decision, yes, the Dean reached</p> <p>20 a different decision; and that decision, yes, was other</p> <p>21 than the decision of the Budget Council and other than</p> <p>22 my decision and other than the official decision of the</p> <p>23 Promotion and Tenure Committee.</p> <p>24 Q. (BY MR. NOTZON) And the facts are not the</p> <p>25 same, are they?</p>
<p>255</p> <p>1 you know, we're fine with -- with people not publishing</p> <p>2 or slow in publications. The arguments that she's</p> <p>3 making in her letter are exactly the same arguments that</p> <p>4 she has made in other cases and we've heard her say</p> <p>5 publicly. So there's no reason for me to speculate or</p> <p>6 to engage in speculation like you are.</p> <p>7 Q. (BY MR. NOTZON) Professor Tewfik --</p> <p>8 (Simultaneous speakers.)</p> <p>9 Q. Professor Tewfik, you -- you recommended</p> <p>10 tenure. Your Budget Committee recommended tenure</p> <p>11 32/1/2/2. The Tenure and Promotion Committee</p> <p>12 recommended tenure at 7/0. They didn't write the first</p> <p>13 draft of the letter, as testified to by the Dean; so you</p> <p>14 have no evidence there.</p> <p>15 You don't know what the President's</p> <p>16 reasoning or the President's Committee's reasoning</p> <p>17 because it's not in writing and you weren't part of any</p> <p>18 conversations with them. Okay?</p> <p>19 And you don't know -- so the Dean -- the</p> <p>20 only thing you have is the Dean's letter, which is</p> <p>21 contradictory to everything that all those other</p> <p>22 positive voters recommended.</p> <p>23 MS. HILTON: Objection, form.</p> <p>24 Q. (BY MR. NOTZON) So that is the different bar</p> <p>25 than you assessed by definition, isn't it?</p>	<p>257</p> <p>1 (Simultaneous speakers.)</p> <p>2 MS. HILTON: Objection, form.</p> <p>3 Q. (BY MR. NOTZON) The Dean does not put</p> <p>4 anything in her letter about the positives that are in</p> <p>5 your letter. The positives that are in the Budget</p> <p>6 Council's assessment, she doesn't put those in there.</p> <p>7 She doesn't put the positives that are in the Tenure and</p> <p>8 Promotion Committee's written assessment bullet points,</p> <p>9 does she?</p> <p>10 MS. HILTON: Objection, form.</p> <p>11 A. I -- actually, my recollection does not align</p> <p>12 with what you're stating here. I do -- my recollection</p> <p>13 is that she had some good things to say about the</p> <p>14 research; and the letter wasn't just negative, negative,</p> <p>15 negative. And it could not have been negative,</p> <p>16 negative, negative.</p> <p>17 Q. (BY MR. NOTZON) Right. I didn't say all</p> <p>18 negative. It doesn't include justifications. It</p> <p>19 doesn't include explanations. It doesn't include --</p> <p>20 like with other individuals that go up for tenure that</p> <p>21 have negative spots in their dossier that are excused</p> <p>22 away or explained away or allowed to exist, that -- none</p> <p>23 of that allowing to exist occurred with Dr. Nikolova's</p> <p>24 file, correct?</p> <p>25 MS. HILTON: Objection, form.</p>

<p>258</p> <p>1 A. You know, if you want to put the Dean's letter 2 in the chat and you want me to take a look at it, then, 3 I can answer your question.</p> <p>4 Q. (BY MR. NOTZON) On the salaries -- so the 5 whole part about the performance on an annual basis, 6 that deals with the raises, the amount of the raise each 7 year, correct?</p> <p>8 A. That's correct.</p> <p>9 MS. HILTON: Objection, form.</p> <p>10 MR. NOTZON: What's the objection on 11 that?</p> <p>12 MS. HILTON: I thought it was ambiguous. 13 Maybe I'm just not following you, Robert. It's been a 14 long day.</p> <p>15 MR. NOTZON: Yeah. Well, please don't 16 say it because you feel that you have to say it every 17 time.</p> <p>18 Q. (BY MR. NOTZON) So the -- so the salaries -- 19 how do you account for the difference in the base 20 salaries of the people that have, you know, one, two, 21 three, four, five, six, seven, eight years less 22 experience than Dr. Nikolova and they're getting paid 23 more?</p> <p>24 A. What's -- what's the definition of "base 25 salary"? In academia there's base salary and bonus.</p>	<p>260</p> <p>1 There was a long discussion about that; 2 and, in the end, I said that if the College and UT 3 wouldn't provide me with the money to correct for that 4 inversion, that I would take it from the departmental 5 budget. In the end, I was given the money to do this; 6 and she was a beneficiary of that. So that's the reason 7 for the starting salary being different from year to 8 year.</p> <p>9 Q. Yet, she still is the second-lowest-paid 10 person?</p> <p>11 A. She's still the second-lowest-paid person 12 because there was no such big bump after that, and 13 people who come after her that performed better than she 14 did got higher raises and overtime and had salaries 15 higher than hers.</p> <p>16 Q. And that would be -- the data for that would 17 be in -- would it be in writing, the assessment of the 18 performance that you relied upon to make those 19 decisions?</p> <p>20 MS. HILTON: Objection, form.</p> <p>21 A. Yeah, there are Excel sheets that would have 22 my ratings next to each professor and the recommended 23 raised; and then there are inputs from the Dean and the 24 Associate Dean.</p> <p>25 Q. (BY MR. NOTZON) A spreadsheet?</p>
<p>259</p> <p>1 There's only one salary, so I don't know what you're 2 talking about.</p> <p>3 Q. Well, there's -- I'm trying to get at the 4 differences in pay of Dr. Nikolova being the second 5 lowest paid person in the department and the others that 6 are higher paid than her that have less to much, much 7 less experience than her. And you mentioned your 8 testimony about the difference in the annual raises; but 9 that doesn't account for the difference in the starting 10 amounts, correct?</p> <p>11 MS. HILTON: Objection, form.</p> <p>12 A. The starting amounts are determined by the 13 market. And so if the market dictates that we start 14 professors at a higher rate, we start them at a higher 15 rate.</p> <p>16 And if you look at Professor Nikolova's 17 salary, you'll see that there is one year where it 18 jumped. The reason that it jumped that year, despite 19 her perhaps less-than-stellar performance, is that in 20 that particular year, we had to raise the salary of 21 incoming, fresh assistant professors. And I wanted to 22 make sure that there would be no inversion in our 23 salaries, meaning that the newcomers would not be paid 24 higher than good-performing professors who were already 25 in the department.</p>	<p>261</p> <p>1 A. Yeah. They could be verbal or an e-mail 2 attached to spreadsheet or, you know, when we'd go into 3 these discussions, I might say, "Why did you give this 4 person 2 percent? You should have given that person 5 only 1.5 percent," and, you know, that sort of stuff.</p> <p>6 Q. Okay. One more -- I think one more exhibit. 7 I don't want to get you too excited about that. Do you 8 see it?</p> <p>9 A. No, I don't.</p> <p>10 MR. NOTZON: Oh, man. Somebody jacked me 11 when I had it changed. You know who you are. Stop it.</p> <p>12 Okay. There it is. This will be 13 Exhibit 32?</p> <p>14 (Exhibit 32 marked.)</p> <p>15 Q. (BY MR. NOTZON) And this is the Deposition 16 Notice for today.</p> <p>17 A. Okay.</p> <p>18 Q. And you were identified as the organizational 19 rep for -- it's the last page, page 3, of the exhibit. 20 If you could, read that for me.</p> <p>21 A. "Ahmed Tewfik as the" --</p> <p>22 Q. Oh, no, just to yourself.</p> <p>23 A. Okay. (Witness silently reading document.)</p> <p>24 Okay.</p> <p>25 Q. And do you understand that you were designated</p>



<p>262</p> <p>1 to speak as UT on that topic?</p> <p>2 A. Yes, I do.</p> <p>3 Q. And what did you do to prepare yourself to</p> <p>4 speak on that topic today?</p> <p>5 A. I had conversations with the lawyers, and I</p> <p>6 asked them to send me some --</p> <p>7 MR. NOTZON: No --</p> <p>8 MS. HILTON: Dr. Tewfik, don't -- I'm</p> <p>9 going to instruct you not to give any answers that would</p> <p>10 intrude on the attorney-client privilege.</p> <p>11 Q. (BY MR. NOTZON) So, in other words, what you</p> <p>12 said to them and what they said to you, I'm not asking</p> <p>13 you about; but the fact that you had the conversation</p> <p>14 is -- you can tell me about that and how long it took</p> <p>15 and all that kind of stuff. Just don't tell me what was</p> <p>16 said. Okay?</p> <p>17 A. The conversation was informing me what this</p> <p>18 meant and they asked me what kind of information I</p> <p>19 needed and they provided me information that I needed.</p> <p>20 Q. Okay. All right. And what documents did you</p> <p>21 review?</p> <p>22 A. I asked to get e-mail --</p> <p>23 Q. Just talk about what documents you prepared --</p> <p>24 I mean, you reviewed to prepare for your testimony.</p> <p>25 A. I looked at -- I had asked for --</p>	<p>264</p> <p>1 documents that you looked at.</p> <p>2 A. I looked at the -- I browsed through the file,</p> <p>3 and I browsed through e-mails.</p> <p>4 Q. The file?</p> <p>5 A. The promotion file.</p> <p>6 Q. Okay. All right. And I asked you a bunch of</p> <p>7 questions about what you and the Department and the</p> <p>8 Budget Council did related to the promotion of</p> <p>9 Dr. Nikolova. Were your answers that you gave as</p> <p>10 Professor Tewfik the same as you would have given as UT?</p> <p>11 MS. HILTON: Robert, do we have an</p> <p>12 agreement that by allowing you to ask the question this</p> <p>13 broadly that UT is not waiving any objections to whether</p> <p>14 or not any individual questions and answers were within</p> <p>15 the scope of the topic?</p> <p>16 MR. NOTZON: We had that agreement the</p> <p>17 past two times; so, yeah. But I'd like to get his</p> <p>18 answer.</p> <p>19 MS. HILTON: Okay. That's fine as long</p> <p>20 as we still have that agreement.</p> <p>21 MR. NOTZON: Yes.</p> <p>22 MS. HILTON: Okay.</p> <p>23 A. We talked about a lot of things. My</p> <p>24 understanding is this set of questions is about the</p> <p>25 process, and the answers I gave about the process as</p>
<p>263</p> <p>1 MS. HILTON: Dr. Tewfik, do not -- I'm</p> <p>2 going --</p> <p>3 Q. (BY MR. NOTZON) You're referencing your</p> <p>4 communication. So just -- you can tell me what</p> <p>5 documents you looked at.</p> <p>6 MS. HILTON: Yeah, you can tell him what</p> <p>7 documents you looked at. Do not provide any information</p> <p>8 about conversations between you and Counsel.</p> <p>9 THE WITNESS: Okay.</p> <p>10 A. The documents I looked at were e-mails that I</p> <p>11 had asked for and --</p> <p>12 (Laughter.)</p> <p>13 THE WITNESS: Oh, sorry.</p> <p>14 MR. NOTZON: I'm sorry.</p> <p>15 Q. (BY MR. NOTZON) Just talk about what you</p> <p>16 looked at and not how you got it, not where you got it</p> <p>17 or when you got it or anything like that. Okay?</p> <p>18 And I'm sorry. I mean no -- I mean no</p> <p>19 disrespect to you. I hope you don't take offense. I</p> <p>20 hope -- it's late in the day. I hope you're not</p> <p>21 offended by my laughing. I don't mean any disrespect.</p> <p>22 Okay? Are you okay?</p> <p>23 A. Yes, I am.</p> <p>24 Q. Okay. I'm sorry.</p> <p>25 So just talk -- just mention -- list the</p>	<p>265</p> <p>1 Dr. Tewfik are the same that I would give about the</p> <p>2 process as UT.</p> <p>3 Q. (BY MR. NOTZON) Okay.</p> <p>4 MR. NOTZON: All right. Let me --</p> <p>5 let's -- let me just check with my cocounsel. So we can</p> <p>6 take a minute, or if you want to --</p> <p>7 MS. HILTON: That's fine. Why don't we</p> <p>8 just take a couple-minute break.</p> <p>9 MR. NOTZON: Okay. Thanks.</p> <p>10 MS. HILTON: Okay.</p> <p>11 THE REPORTER: We're going off the record</p> <p>12 at 6:54 p.m.</p> <p>13 (Off the record from 6:54 to 6:58 p.m.)</p> <p>14 THE REPORTER: We are back on the record</p> <p>15 at 6:58 p.m.</p> <p>16 Q. (BY MR. NOTZON) Okay. Just a couple of</p> <p>17 follow-ups and for those in the cheap seats, this is</p> <p>18 asking questions for you -- from you as an individual,</p> <p>19 okay, not as UT.</p> <p>20 On the exhibit 27, when you read through</p> <p>21 Dr. Nik- --</p> <p>22 A. Sorry. So are we flipping back to not UT; now</p> <p>23 I'm Ahmed again?</p> <p>24 Q. I thought I just said that.</p> <p>25 A. I just wanted to clarify that.</p>



<p style="text-align: right;">266</p> <p>1 Q. Yes, sir.</p> <p>2 A. Okay.</p> <p>3 Q. That's it's.</p> <p>4 A. Okay.</p> <p>5 Q. Exhibit 27, Dr. Nikolova's e-mail that you</p> <p>6 spent time reading, where she made public her review</p> <p>7 case --</p> <p>8 A. Yes.</p> <p>9 Q. Okay. -- did you see in that e-mail from her</p> <p>10 that she was raising a gender and pregnancy disparity</p> <p>11 issues?</p> <p>12 A. I would have to go back and read it. You're</p> <p>13 just flip flopping from different things, so.</p> <p>14 (Witness silently reading document.)</p> <p>15 Okay. Can you restate the question,</p> <p>16 please?</p> <p>17 Q. Yeah. Do you see that she has raised</p> <p>18 complaints, concerns of gender and/or pregnancy</p> <p>19 discrimination in that e-mail?</p> <p>20 MS. HILTON: Objection, form.</p> <p>21 A. Yes. Her last paragraph is -- mentions that</p> <p>22 she was the only woman among the six promotion</p> <p>23 candidates; and there is another sentence about</p> <p>24 "anecdotally," blah, blah, blah.</p> <p>25 Q. (BY MR. NOTZON) Okay. Did -- what is your</p>	<p style="text-align: right;">268</p> <p>1 difference in the amount of time it takes for men or</p> <p>2 women to get to tenure in your department?</p> <p>3 MS. HILTON: Objection, form.</p> <p>4 A. I am reacting based on the fact that it</p> <p>5 normally takes six years for people to be promoted; and</p> <p>6 as far as I can recall, the only person for whom that</p> <p>7 has gone beyond the six years, because of the</p> <p>8 extensions, was Nikolova. Nikolova is one. You know,</p> <p>9 it's one candidate at the Assistant Professor level that</p> <p>10 went up for promotion. So you have an N of 1 on which</p> <p>11 you're basing a conclusion.</p> <p>12 Q. Okay. The answer to my question is: You</p> <p>13 didn't go and look at the numbers for your department to</p> <p>14 ensure that what she said was true or not true; is that</p> <p>15 correct?</p> <p>16 A. Do I really need to look at the numbers if</p> <p>17 she's the only one who went from Assistant to Associate</p> <p>18 Professor as a woman, as far as I can recall?</p> <p>19 MR. NOTZON: Object as nonresponsive.</p> <p>20 Q. (BY MR. NOTZON) My question is: Did you or</p> <p>21 did you not go and look at the numbers of everyone in</p> <p>22 the department who's gone up for tenure and how long</p> <p>23 it's taken, male versus female?</p> <p>24 A. Well, you asked me the question a minute ago;</p> <p>25 and in between when you asked the question and now, I</p>
<p style="text-align: right;">267</p> <p>1 reaction to those -- to her accusations, her complaints?</p> <p>2 A. My reaction to the fact that she was the only</p> <p>3 woman among the six promotion candidates, well, yes,</p> <p>4 it's a fact she was the only woman among the six</p> <p>5 candidates; but she did not provide any evidence and I</p> <p>6 couldn't see any evidence that played a role anywhere in</p> <p>7 the process at any level.</p> <p>8 And the anecdotal, "It is my impression</p> <p>9 that women in this department have a longer time to</p> <p>10 advancement," that's not true as far as I know. I don't</p> <p>11 know that anyone spent more time because she was a woman</p> <p>12 at any rank.</p> <p>13 Q. Did you -- did you do any studies of the</p> <p>14 numbers to account for the amount of time that women</p> <p>15 spend on average compared to the amount of time men</p> <p>16 spend on average obtaining tenure?</p> <p>17 A. Yes -- well, I didn't do the math; but what I</p> <p>18 know is that people go up for tenure at the time. There</p> <p>19 are very rare cases in which someone went up for tenure</p> <p>20 early, real early -- I mean, the true early, not the</p> <p>21 technical early. And I can only remember maybe a couple</p> <p>22 of people for whom that happened.</p> <p>23 Q. So just to clarify, you said you didn't</p> <p>24 actually look at the numbers. You're just reacting on</p> <p>25 your seat-of-the-pants feeling that there is no</p>	<p style="text-align: right;">269</p> <p>1 did not go and calculate these numbers.</p> <p>2 Q. Okay. On the salaries -- well, let me ask one</p> <p>3 more question on that e-mail. If you would have been</p> <p>4 asked for your advice on that, whether or not</p> <p>5 Dr. Nikolova should have sent that e-mail or not, what</p> <p>6 would you have advised her?</p> <p>7 MS. HILTON: Objection, form.</p> <p>8 A. That's hypothetical. But my advice would have</p> <p>9 been to send an e-mail that would be along the letter,</p> <p>10 the rebuttal letter that she wrote. Be factual. Be</p> <p>11 precise. You know, provide a comparison point; and make</p> <p>12 your case that way. Don't make statements that -- or</p> <p>13 accusations for which you cannot provide any evidence.</p> <p>14 Q. (BY MR. NOTZON) Were -- given that you had</p> <p>15 earlier raised concerns of potential gender bias, what</p> <p>16 were your feelings about her raising gender</p> <p>17 discrimination? Do you think that she was unjustified?</p> <p>18 Did you think it was improper?</p> <p>19 MS. HILTON: Objection, form.</p> <p>20 Q. (BY MR. NOTZON) Do you fault --</p> <p>21 A. I think -- I think it was unjustified because</p> <p>22 there's no evidence of that; and, then, making</p> <p>23 allegations such -- very serious allegations in a public</p> <p>24 forum without backing is very serious.</p> <p>25 Q. Did you talk to her about that?</p>

<p style="text-align: right;">270</p> <p>1 A. I didn't talk to her after -- I don't recall,  2 you know, having a discussion about her e-mail with her  3 after she sent the e-mail.  4 Q. Okay. Do you know what she has or what she  5 does not have in her mind about the reason -- the bases  6 for her accusations?  7 A. I don't know what she has in mind. I know  8 what the facts are. If there are facts that she knows  9 and no one else knows, then, that's fine. I mean, then,  10 she should have presented those facts.  11 Q. Okay. And so do you know what is in the mind  12 of the Dean and the President and the President's  13 Committee that voted against her?  14 A. I don't -- so this is pertaining to what, to  15 gender bias?  16 Q. Yes. What was motivating them?  17 A. I don't know what's in their minds; but what I  18 do know is how they acted in various other situations  19 and is there a correlation between such an accusation  20 and their actions, or no? And, to the best of my  21 knowledge, I have never seen of any of them any action  22 that would lead me to think that they are biased.  23 Q. On the salary issue, you said that you review  24 data, and then you enter your rating into a spreadsheet.  25 What data are you reviewing? Are you reviewing the</p>	<p style="text-align: right;">272</p> <p>1 the testimony was going to be about process and that I  2 would be speaking about the process as UT. The way the  3 question was phrased, you know, I was sort of concerned  4 that because we had such a long discussion about so many  5 items earlier, that this would give the opposing counsel  6 a license to just take anything and then say that's the  7 UT position.  8 MS. HILTON: Ms. Cunningham, is the -- is  9 Exhibit 30 the Plaintiff's Notice of Oral and Video  10 Deposition? I apologize. I haven't numbered this.  11 MR. NOTZON: No, it's 32.  12 MS. HILTON: 32.  13 Q. (BY MS. HILTON) Doctor --  14 MS. HILTON: Thank you, Robert.  15 Q. (BY MS. HILTON) Dr. Tewfik, do you have the  16 Exhibit 32, which is the Notice of Oral and Video  17 Deposition in front of you?  18 A. Yes. It doesn't have an exhibit number, so.  19 Q. Okay. Yeah, I understand.  20 If you'll just go to page 3, do you see  21 where it says Exhibit A?  22 A. Yes.  23 Q. Okay. And do you understand that that topic  24 listed on Exhibit A encompasses the scope of your  25 testimony on behalf of UT today?</p>
<p style="text-align: right;">271</p> <p>1 FARs?  2 A. What I'm reviewing -- yes -- is I -- there is  3 a Faculty Annual Review and the CV that's submitted in  4 September, so by October 1st; and I ask all the faculty  5 members to send me an updated CV or FAR during the  6 Spring term so that entering into these salary  7 discussions, I have the most up-to-date picture of their  8 accomplishments.  9 Q. Is there anything else you review besides  10 those items that you just testified about?  11 A. No, these are the items that I look at.  12 Q. Okay.  13 MR. NOTZON: Pass the witness. Thank you  14 very much.  15 MS. HILTON: One quick point of  16 clarification.  17 EXAMINATION  18 BY MS. HILTON:  19 Q. Dr. Tewfik, do you understand that the  20 testimony you gave on behalf of UT was limited to the  21 Tenure Review Decision Process relating to the decision  22 to deny tenure to Dr. Nikolova relating to the actions  23 of the Electrical and Computer Engineering Department  24 and Department Chair?  25 A. Yes. My understanding was that that part of</p>	<p style="text-align: right;">273</p> <p>1 A. Yes, I do.  2 MS. HILTON: No further questions. Thank  3 you.  4 MR. NOTZON: Nothing. Thank you.  5 THE REPORTER: Ms. Hilton, do you want a  6 copy of the transcript?  7 MS. HILTON: Yes, please.  8 THE REPORTER: All right. This concludes  9 the deposition at 7:10 p.m.  10 (Deposition adjourned at 7:10 p.m.)  11 --ooOoo--  12  13  14  15  16  17  18  19  20  21  22  23  24  25</p>

<p>274</p> <p>1 CHANGES AND SIGNATURE</p> <p>2 WITNESS NAME: DATE OF DEPOSITION:</p> <p>3 AHMED TEWFIK March 20, 2021</p> <p>4 PAGE/LINE CHANGE REASON</p> <p>5 _____</p> <p>6 _____</p> <p>7 _____</p> <p>8 _____</p> <p>9 _____</p> <p>10 _____</p> <p>11 _____</p> <p>12 _____</p> <p>13 _____</p> <p>14 _____</p> <p>15 _____</p> <p>16 _____</p> <p>17 _____</p> <p>18 _____</p> <p>19 _____</p> <p>20 _____</p> <p>21 _____</p> <p>22 _____</p> <p>23 _____</p> <p>24 _____</p> <p>25 _____</p>	<p>276</p> <p>1 STATE OF TEXAS )</p> <p>2 REPORTER'S CERTIFICATION</p> <p>3 I, DEBBIE D. CUNNINGHAM, CSR, hereby</p> <p>4 certify that the witness was duly sworn and that this</p> <p>5 transcript is a true record of the testimony given by</p> <p>6 the witness.</p> <p>7 I further certify that I am neither</p> <p>8 counsel for, related to, nor employed by any of the</p> <p>9 parties or attorneys in the action in which this</p> <p>10 proceeding was taken. Further, I am not a relative or</p> <p>11 employee of any attorney of record in this cause, nor am</p> <p>12 I financially or otherwise interested in the outcome of</p> <p>13 the action.</p> <p>14 Subscribed and sworn to by me this day,</p> <p>15 April 20, 2021.</p> <p>16 _____</p> <p>17</p> <p>18</p> <p>19</p> <p>20 Debbie D. Cunningham, CSR</p> <p>21 CSR 2065</p> <p>22 Expiration: 6/30/21</p> <p>23 INTEGRITY LEGAL SUPPORT SOLUTIONS</p> <p>24 P.O. Box 245</p> <p>25 Manchaca, Texas 78652</p> <p>www.integrity-texas.com</p> <p>512-320-8690; FIRM # 528</p>
<p>275</p> <p>1 I, AHMED TEWFIK, have read the foregoing</p> <p>2 deposition and hereby affix my signature that same is</p> <p>3 true and correct, except as noted herein.</p> <p>4</p> <p>5 _____</p> <p>6 AHMED TEWFIK</p> <p>7</p> <p>8 THE STATE OF _____ )</p> <p>9 Before me, _____, on</p> <p>10 this day personally appeared AHMED TEWFIK, known to me</p> <p>11 (or proved to me under oath or through _____)</p> <p>12 (description of identity card or other document) to be</p> <p>13 the person whose name is subscribed to the foregoing</p> <p>14 instrument and acknowledged to me that they executed</p> <p>15 same for the purposes and consideration therein</p> <p>16 expressed.</p> <p>17 Given under my hand and seal of office on</p> <p>18 this _____ day of _____, _____.</p> <p>19</p> <p>20</p> <p>21 _____</p> <p>22 NOTARY PUBLIC IN AND FOR</p> <p>23 THE STATE OF _____</p> <p>24 My Commission Expires: _____</p> <p>25</p>	

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# EXHIBIT 13

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

EVDOKIA NIKOLOVA  
Plaintiff,

V.

UNIVERSITY OF TEXAS AT  
AUSTIN,  
Defendant.

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CASE NO. 1:19-cv-00877-RP

ORAL VIDEOCONFERENCED DEPOSITION

OF

CHRISTINE JULIEN,

AS BOTH ORGANIZATION REPRESENTATIVE

AND AS FACT WITNESS

Friday, March 19, 2021

ORAL VIDEOCONFERENCED DEPOSITION OF CHRISTINE  
JULIEN, produced as a witness at the instance of the  
Plaintiff, and duly sworn, was taken in the above-styled  
and numbered cause on Friday, March 19, 2021, from  
10:00 a.m. to 4:03 p.m., before Debbie D. Cunningham,  
CSR, in and for the State of Texas, reported remotely  
via Machine Shorthand, pursuant to the Federal Rules of  
Civil Procedure.

--ooOoo--

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<p>3</p> <p>1 INDEX</p> <p>2 APPEARANCES 2</p> <p>3</p> <p>4 EXAMINATION OF CHRISTINE JULIEN:</p> <p>5 BY MR. NOTZON 6</p> <p>6</p> <p>7</p> <p>8 CHANGES AND SIGNATURE 177</p> <p>9 REPORTER'S CERTIFICATION 179</p> <p>10</p> <p>11 --ooOoo--</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>5</p> <p>1 (Friday, March 19, 2021, 10:00 a.m.)</p> <p>2 P R O C E E D I N G S</p> <p>3 THE REPORTER: Today is Friday, March 19,</p> <p>4 2021. This is the videoconferenced deposition of</p> <p>5 Christine Julien in the matter of Nikolova versus UT.</p> <p>6 Due to the COVID-19 Pandemic we are</p> <p>7 remotely situated, and we are on the record at</p> <p>8 10:00 a.m. Central Standard Time.</p> <p>9 My name is Debbie Cunningham, and my</p> <p>10 business address is P.O. Box 245, Manchaca, Texas 78652.</p> <p>11 Would all persons present please</p> <p>12 introduce themselves for the record?</p> <p>13 MR. NOTZON: Robert Notzon and Bob</p> <p>14 Schmidt for Evdokia Nikolova.</p> <p>15 MS. HILTON: Amy Hilton for the</p> <p>16 University of Texas at Austin.</p> <p>17 MR. DOWER: Benjamin Dower, also for the</p> <p>18 University of Texas at Austin.</p> <p>19 MS. HILTON: And we have some</p> <p>20 stipulations we'd like to read into the record that we</p> <p>21 discussed beforehand. The parties stipulate that</p> <p>22 objection to form is sufficient to preserve objections</p> <p>23 to the form of the question and will be used in lieu of</p> <p>24 the more specific form-based objections. The parties</p> <p>25 stipulate that all objections except as to the form of</p>

<p>6</p> <p>1 the question or answer are reserved until trial. And</p> <p>2 the deponent would like an opportunity to review the</p> <p>3 transcript and recording.</p> <p>4 MR. NOTZON: Agreed. Okay.</p> <p>5 CHRISTINE JULIEN,</p> <p>6 having been duly sworn, testified as follows:</p> <p>7 EXAMINATION</p> <p>8 BY MR. NOTZON:</p> <p>9 Q Good morning.</p> <p>10 A. Good morning.</p> <p>11 Q. Could you please state your name for the</p> <p>12 record?</p> <p>13 A. Christine Julien.</p> <p>14 Q. And I understand you're Professor Julien?</p> <p>15 A. That's right.</p> <p>16 Q. Okay. And you have the rank of full</p> <p>17 professor?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. I'd like to go over kind of a little</p> <p>20 short history to get some background. How old are you?</p> <p>21 A. 42 -- 43. Oh, my goodness. I'm 43.</p> <p>22 Q. Yeah, I know. That happens to me, too.</p> <p>23 A. Okay.</p> <p>24 Q. And just when you get used to saying the</p> <p>25 number, it changes. It gets worse and faster.</p>	<p>8</p> <p>1 go up on?</p> <p>2 A. Oh, on time. So the sixth year. Yeah, so on</p> <p>3 time.</p> <p>4 Q. And you've spent your entire career teaching</p> <p>5 at UT?</p> <p>6 A. I teach and do research at UT, yes.</p> <p>7 Q. Were you proposed or considered for</p> <p>8 accelerated promotion?</p> <p>9 A. I was not.</p> <p>10 Q. Were you considering it?</p> <p>11 A. I had some conversations with the Department</p> <p>12 Chair at the time the year before.</p> <p>13 Q. Who was that?</p> <p>14 A. Tony Ambler was his name.</p> <p>15 Q. Okay. And what was the substance of that</p> <p>16 conversation?</p> <p>17 A. We discussed whether it made sense to apply</p> <p>18 for early promotion and determined that since the</p> <p>19 University has a higher kind of bar expectation for</p> <p>20 early promotion, that it made sense to wait a year --</p> <p>21 not to wait a year, but to do it on time, instead.</p> <p>22 Q. Okay. So that conversation happened what</p> <p>23 year?</p> <p>24 A. I don't -- I don't -- the best of my</p> <p>25 recollection, I mean, just based on the timing, it's</p>
<p>7</p> <p>1 So are you married?</p> <p>2 A. I am.</p> <p>3 Q. And do you have children?</p> <p>4 A. I do.</p> <p>5 Q. And how many children?</p> <p>6 A. I have two children.</p> <p>7 Q. And how old are they -- or what were their</p> <p>8 birthdays?</p> <p>9 A. My oldest child was born on May 10th, 2007 and</p> <p>10 my youngest on October 12th, 2012.</p> <p>11 Q. Nice.</p> <p>12 And did you have your children during</p> <p>13 your probationary period?</p> <p>14 A. My oldest child was born during my</p> <p>15 probationary period.</p> <p>16 Q. Okay. And that was at UT?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And when you went up for tenure, what</p> <p>19 year did you go up on?</p> <p>20 A. I was promoted in 2010. So I went up the year</p> <p>21 before that. I started -- started in the rank of</p> <p>22 Associate Professor in August of 2010.</p> <p>23 Q. What -- my question was not specific enough.</p> <p>24 A. Sorry.</p> <p>25 Q. What year of your probationary clock did you</p>	<p>9</p> <p>1 going to have happened in 2007, 2008, somewhere around</p> <p>2 then.</p> <p>3 Q. Okay. Would it have been in your fourth year</p> <p>4 of your probationary clock?</p> <p>5 A. Yes, because I would have needed to have time</p> <p>6 to prepare the materials for early promotion.</p> <p>7 Q. And you would have been one year early if you</p> <p>8 would have gone up early?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And so it's your understanding that a</p> <p>11 heightened standard for accelerated promotion has</p> <p>12 existed since at least that time, through today?</p> <p>13 A. Yes, that's how it was communicated to me at</p> <p>14 that time.</p> <p>15 Q. Okay. And other than the Chair telling you</p> <p>16 that, have you any other outside experience or knowledge</p> <p>17 that there's a heightened standard for accelerated</p> <p>18 promotion compared to on time?</p> <p>19 A. Yes, this is a conversation we have on a</p> <p>20 regular basis.</p> <p>21 Q. Who's "we"?</p> <p>22 A. The Department and the Department Chair in the</p> <p>23 department meetings, faculty meetings.</p> <p>24 Q. Okay. So faculty and administration?</p> <p>25 A. Yes.</p>



<p>10</p> <p>1 Q. Okay. And so would it be your testimony that</p> <p>2 it's common knowledge among the faculty that there's a</p> <p>3 heightened standard for accelerated promotion versus</p> <p>4 on-time promotion?</p> <p>5 A. It's my testimony that I've understood that</p> <p>6 since I was an Assistant Professor and that that</p> <p>7 conversation has happened with others present as well,</p> <p>8 other people in the faculty present as well.</p> <p>9 Q. And would you -- but you would agree that it's</p> <p>10 not in writing?</p> <p>11 A. I don't know if it's in writing or not. It</p> <p>12 could very well be in the HOP, the Handbook of Operating</p> <p>13 Procedures, or in UT System Regent's Rules. I haven't</p> <p>14 checked for that.</p> <p>15 Q. You just know it from conversation?</p> <p>16 A. I have been told that by members of the</p> <p>17 administration.</p> <p>18 Q. Right. Verbally?</p> <p>19 A. I have not been shown a piece of paper where</p> <p>20 it is the case.</p> <p>21 Q. Or told a cite?</p> <p>22 A. I don't recall having been pointed to one; but</p> <p>23 it's possible that when I was preparing my tenure and</p> <p>24 promotion materials, I would have been pointed to</p> <p>25 something that would have indicated that. I don't</p>	<p>12</p> <p>1 my final exam. So there's no convenient time, it turns</p> <p>2 out, in an academic schedule for a child to be born; but</p> <p>3 there are less convenient times.</p> <p>4 Q. Right. I was thinking more of you have the</p> <p>5 first three months of life with less responsibility than</p> <p>6 during the semester.</p> <p>7 A. I don't think that's the case in an academic</p> <p>8 position. Summers are equally as important as the</p> <p>9 academic year for our jobs.</p> <p>10 Q. Okay. But you were able to maintain your</p> <p>11 productivity, regardless?</p> <p>12 A. Productivity is not constant, even in normal</p> <p>13 times. There was certainly a dip in my productivity;</p> <p>14 but I did not feel as though it impacted my, kind of,</p> <p>15 trajectory towards promotion.</p> <p>16 Q. In the overall six-year picture?</p> <p>17 A. That's right.</p> <p>18 Q. Okay. Would you agree that Modified</p> <p>19 Instructional Duty is not leave?</p> <p>20 A. When I took Modified Instructional Duty, I did</p> <p>21 not believe I was on leave from the university.</p> <p>22 Q. And could you explain why you believed that?</p> <p>23 A. I was asked at that time, in 2007, to write a</p> <p>24 form that explained what I would actually be doing</p> <p>25 during the semester that was to follow the 2007</p>
<p>11</p> <p>1 remember. I don't know.</p> <p>2 Q. Okay. When you were pregnant and had a child</p> <p>3 during your probationary period, did you take advantage</p> <p>4 of the Modified Instructional Duty?</p> <p>5 A. I did.</p> <p>6 Q. And just the one semester?</p> <p>7 A. I did, yes.</p> <p>8 Q. And did you take advantage of the tenure</p> <p>9 promotion extension?</p> <p>10 A. I did not.</p> <p>11 Q. Okay. Were you offered it?</p> <p>12 A. I believe I was. I don't know if I was</p> <p>13 explicitly offered it. I knew that it was available to</p> <p>14 me and that I could opt to take it, and I opted not to</p> <p>15 take it. I don't remember how it became -- I became</p> <p>16 aware that it was available to me.</p> <p>17 Q. And what was your decision-making process on</p> <p>18 that, to take it or not to take it?</p> <p>19 A. Yeah. I felt like I was on track for an</p> <p>20 on-time promotion. I felt like, with the support I had,</p> <p>21 that I wasn't going to need extra time. So I didn't</p> <p>22 apply for extra time.</p> <p>23 Q. Did it help that your baby was born in May</p> <p>24 instead of in the middle of the semester?</p> <p>25 A. It did not. My daughter was born the day of</p>	<p>13</p> <p>1 semester. And so there was an agreement between me and</p> <p>2 the Department about what my modified duties would be,</p> <p>3 explicitly.</p> <p>4 Q. Okay. And who were you negotiating that with?</p> <p>5 A. It wasn't a negotiation; but that conversation</p> <p>6 happened with the Department Chair, Tony Ambler.</p> <p>7 Q. Okay. And I take it from your answer you</p> <p>8 don't know if that's standard for other people on</p> <p>9 Modified Instructional Duty?</p> <p>10 A. I don't know if it's standard. There was a</p> <p>11 form, and I filled it out. I assume others also fill</p> <p>12 out a similar form, but I don't see them.</p> <p>13 Q. I just was asking because you didn't answer</p> <p>14 the question when I asked you if Modified Instructional</p> <p>15 Duty was not leave. You weren't willing to answer that</p> <p>16 in the general, just from your own experience.</p> <p>17 A. Yeah, the question was difficult for me</p> <p>18 because it had somehow almost a one-and-a-half negative</p> <p>19 in it. So it was a little...</p> <p>20 So I don't think of Modified</p> <p>21 Instructional Duty as leave; and I don't think the</p> <p>22 University does, either.</p> <p>23 Q. All right. Thanks. I just didn't understand</p> <p>24 what the issue with my question was, and I have no</p> <p>25 problem with you having issues with my questions.</p>

<p>14</p> <p>1 Frequently people do, so no problem.</p> <p>2 And did you get your Ph.D. at UT as well?</p> <p>3 A. I did not. In fact, I don't have a Ph.D.; and</p> <p>4 I like to be careful about the distinction because I</p> <p>5 don't ever want to be accused of claiming I have an</p> <p>6 actual Ph.D. I have a DSC, which is an equivalent</p> <p>7 degree. It's from Washington University in St. Louis.</p> <p>8 That's the institution I attended.</p> <p>9 Q. Okay. And what do those letters stand for?</p> <p>10 A. Sorry. It's a Doctor of Science.</p> <p>11 Q. Okay. Does Wash U just not provide a Ph.D.?</p> <p>12 A. It's a long, long, you know, academic</p> <p>13 political story. It actually is a Ph.D. now; but at the</p> <p>14 time I graduated, it was a DSC.</p> <p>15 Q. Thanks a lot, right? Okay.</p> <p>16 And you're now -- what is your Associate</p> <p>17 Dean title?</p> <p>18 A. I am currently the Associate Dean for</p> <p>19 Diversity, Equity, and Inclusion.</p> <p>20 Q. Do you have a fancy acronym for it?</p> <p>21 A. I call it the Associate Dean for DEI, because</p> <p>22 it gets a little bit cumbersome on the tongue there.</p> <p>23 Q. Okay. "ADDEI" would even be worse, I think.</p> <p>24 A. Yes.</p> <p>25 Q. Okay. And when did you start that position?</p>	<p>16</p> <p>1 Q. Okay. And what was the process of you coming</p> <p>2 to that position, starting that position in August?</p> <p>3 When were you first either approached, or did you</p> <p>4 approach with interest for the job?</p> <p>5 A. The Dean approached me about the job sometime</p> <p>6 in relative early summer -- it could have been late</p> <p>7 June, early July of 2019 -- to ask whether I would</p> <p>8 consider taking on the role. At that time we had</p> <p>9 several exchanges back and forth throughout the summer</p> <p>10 about what exactly were the expectations of the role</p> <p>11 since it was new, and I had some concerns.</p> <p>12 I know that at other institutions the</p> <p>13 role is more of a: We feel good because we have</p> <p>14 somebody in this role, but this person doesn't really do</p> <p>15 anything or have any power and I didn't --</p> <p>16 Q. Window dressing?</p> <p>17 A. I'm sorry?</p> <p>18 Q. Window dressing?</p> <p>19 A. Window dressing, yes. And I didn't want to</p> <p>20 take the position if that was the case. And so the dean</p> <p>21 and I had some significant conversations about how it</p> <p>22 would be structured and what her commitment to DEI was</p> <p>23 before I agreed to take the position.</p> <p>24 I also spoke with people across campus.</p> <p>25 There were two other people in similar roles who I spoke</p>
<p>15</p> <p>1 A. I started in the role in August of 2019. At</p> <p>2 that time the title was Assistant Dean for Diversity,</p> <p>3 Equity, and Inclusion; and it changed in August to</p> <p>4 Associate Dean.</p> <p>5 Q. That's a promotion?</p> <p>6 A. It was neither a change in duty nor a change</p> <p>7 in salary. It was just a change in title, I think, to</p> <p>8 reflect the importance of the role.</p> <p>9 Q. Organizational height?</p> <p>10 A. More, I -- more organizational equity, I</p> <p>11 think, in the sense that in the Cockrell School and</p> <p>12 largely, I think, across campus, Associate Dean roles</p> <p>13 are held by tenured faculty; and Assistant Dean roles</p> <p>14 are not held by tenured faculty. And so when the</p> <p>15 position was created, this was something of on</p> <p>16 oversight, I think, until it was corrected. That was</p> <p>17 how it was put to me, anyway.</p> <p>18 Q. Okay. And who identified the inequity?</p> <p>19 A. Internally, I think the dean, Dean Wood,</p> <p>20 identified it, from her conversations with me, based on</p> <p>21 conversations with deans at other institutions, asking:</p> <p>22 Why is this an Assistant Dean when you have other</p> <p>23 Associate Deans -- and then, also, conversations</p> <p>24 internally about other people in similar roles across</p> <p>25 campus.</p>	<p>17</p> <p>1 to, to get their insights on just kind of the nature of</p> <p>2 that role at UT.</p> <p>3 Q. And what were those two departments?</p> <p>4 A. I spoke to --</p> <p>5 Q. Just the department names.</p> <p>6 A. Oh, I'm sorry. The equivalent person in</p> <p>7 McCombs, the School of Business, and in the College of</p> <p>8 Natural Sciences.</p> <p>9 Q. And how long had they been in existence in</p> <p>10 their positions?</p> <p>11 A. The person at McCombs had been in her role for</p> <p>12 about a year at the time, I think, maybe a year and a</p> <p>13 half. And the College of Natural Sciences is structured</p> <p>14 differently. The role doesn't have anywhere near the</p> <p>15 same title; but the person doing it has been doing that</p> <p>16 work in the College of Natural Sciences for, like, five</p> <p>17 years, for quite some time.</p> <p>18 Q. Okay. And the one for McCombs, was that</p> <p>19 person the first person in the position?</p> <p>20 A. Yes.</p> <p>21 Q. So the start of the position and her role were</p> <p>22 coexistent?</p> <p>23 A. Correct.</p> <p>24 Q. Okay. And that conversation you had with</p> <p>25 Dean Wood about what you wanted the position to be and</p>

<p>18</p> <p>1 what she was willing for it to be, could you give us 2 kind of a little outline of what you were after so that 3 you could check that box that it's not window dressing? 4 A. Yeah. So it was not a single conversation. 5 It was a series of conversations. 6 Q. I'm asking just for that list of things that 7 you were looking for, in total, not in just one 8 conversation, and the back and forth and what it ended 9 up being that you were satisfied that that box was 10 checked. 11 A. Yeah. So several of the things were: What 12 are the roles? What are the things that we're serious 13 about doing? Where do we see the challenges? 14 So a lot of these were in faculty 15 recruiting and retention and then also in graduate 16 student post doc recruiting and retention. The 17 commitment to provide resources to that; specifically, 18 you know, that's money, right, that we're going to 19 actually spend money on these initiatives. 20 And then another thing that was really 21 important to me was a commitment that she would show her 22 support when faculty were asked to participate because 23 faculty participation in these initiatives kind of 24 determines whether they're successful or not. 25 So those were the major things. I think</p>	<p>20</p> <p>1 A. I do not have an annual budget. Right now I 2 make -- when I require resources, I make requests to the 3 Dean for support for those resources; and she allocates 4 funding for them, yeah. 5 Q. Okay. So when you asked for resources, she 6 told you: Ask and you shall receive or... 7 A. I asked if she was going to commit funding to 8 this. She told me that she was, and she has since 9 demonstrated that she intends to -- or she has 10 demonstrated that by doing it, I guess is what I'm 11 saying. 12 Q. So every time you've asked for money, you have 13 received it? 14 A. As far as I can remember, that's the case. 15 The Dean has been very forthcoming with funding over the 16 past year and a half for DEI-related initiatives. 17 Q. And have you been -- what kind of activities 18 have you engaged in, in terms of the -- well, let me 19 back up. 20 Why were you interested in this job? 21 A. So I had been exploring leadership 22 opportunities for the past several years. Just, you 23 know, I've reached full professor status. I have a 24 solid research program. And it's that time where I ask 25 myself: Is this what I want to do, or do I want to do</p>
<p>19</p> <p>1 one other piece that was pivotal for me to accept the 2 role was that we would do an explicit reevaluation of 3 where we were after a year. I was only agreeing to do 4 it for a year. So it was kind of a two-way trial. And 5 so we did that this past summer. 6 Q. And that reevaluation ended up with that 7 report? 8 A. I'm sorry. What report? 9 Q. Oh, I took it from Dean Wood's testimony 10 yesterday -- and I may be mistaken -- that after your 11 first year, that a report was written? 12 A. That's correct. We did generate a DEI annual 13 report. That was one of the things that I started when 14 I began. I decided that we would start writing an 15 annual report, reporting on our DEI, kind of, 16 activities, initiatives, progress, and remaining 17 challenges. That's not related to this conversation I'm 18 talking about with the Dean. That's completely 19 independent. 20 Q. Okay. So your reevaluation was conducted 21 outside of that report. That report was just part of 22 your job that you've been doing? 23 A. That's right. 24 Q. Okay. And the resources, so do you have an 25 annual budget?</p>	<p>21</p> <p>1 something more? So I'd been exploring what are the 2 options available to me from a leadership perspective. 3 I had communicated that to the Dean some years ago that, 4 you know, I was interested in trying on some leadership 5 roles. So that's the one side. 6 This particular position is a passion of 7 mine. I have spent a lot of time and effort over my 8 academic career promoting specifically women in 9 computing and trying to start new initiatives to broaden 10 participation in computing. I'm kind of known for this 11 within our department. 12 I run some programs for middle and high 13 school students to try to encourage them to apply for 14 engineering. Within my professional community, I have 15 promoted women and underrepresented minorities, to a 16 lesser degree, at our major conferences. So this is 17 something where I have expertise and I see that there is 18 a lot of potential. 19 And then, just as a woman who's under- 20 represented in engineering, I think it's important work 21 to do. So it was an opportunity to kind of, you know, 22 take on a larger leadership role, something I think I 23 could enjoy and could be good at and, also, at the same 24 time, impact an area where I think it's really important 25 to do so. So that's why, I guess.</p>

<p style="text-align: right;">22</p> <p>1 Q. Being a woman in engineering -- other than  2 being underrepresented, have you had any other  3 challenges being a woman in engineering?  4 A. I'm not sure what your question is. I'm  5 sorry.  6 Q. You mentioned being a woman in engineering and  7 being underrepresented had caused you to have this  8 passion toward all the things you said you've been  9 doing. I was wondering if there was anything other than  10 just being underrepresented as a female in engineering  11 that have caused you to make diversity and inclusion a  12 passion of yours.  13 A. I don't -- I don't think so. I mean, I think  14 the biggest -- I mean, most of the challenges that I  15 face as a woman or that women in engineering face happen  16 because of the underrepresentation. So I'm not sure  17 what you're getting at.  18 Q. So you're saying that the underrepresentation  19 is the source of all the issues that a woman might have  20 in the field of engineering?  21 MS. HILTON: Objection, form.  22 A. I'm not sure that's a characterization -- a  23 correct characterization, either.  24 Q. (BY MR. NOTZON) Okay. What would be other  25 issues that a woman might have in engineering --</p>	<p style="text-align: right;">24</p> <p>1 A. So "discrimination" is a pretty vague and  2 broad term. Can you define what you mean by  3 "discrimination"?  4 Q. Difference in treatment --  5 A. Difference in --  6 Q. -- because of your gender.  7 A. I'm -- again, I think this is a pretty broad,  8 blanket term. I've had students call me "Mrs." instead  9 "Dr." I assume they don't call their male faculty  10 "Mrs."  11 Q. Or "Mr."?  12 A. They do, in fact, sometimes call them "Mr." I  13 don't know if the rate is the same. So, I mean, that's  14 a difference in treatment; but I don't know if it's -- I  15 wouldn't necessarily call that "discrimination." You'd  16 have to dig into the reasons underlying it in order to  17 label it "discrimination" or not.  18 Q. Have you experienced any differential  19 treatment from management?  20 A. By "management," I assume you mean department  21 chairs, deans?  22 Q. Supervisors.  23 A. I have not -- hold on. I'm sorry. Let me  24 back up. I would say that, you know, allowing and  25 encouraging me to take Modified Instructional Duty when</p>
<p style="text-align: right;">23</p> <p>1 particularly you, that you have had in engineering,  2 other than just being underrepresented?  3 A. Well, again, I am underrepresented, so that  4 causes other things to happen.  5 Q. Like?  6 A. Which may include things like, you know,  7 comments because, you know, colleagues aren't used to  8 seeing a women in various different spaces that, you  9 know, may be insensitive or mal- -- not mal-intended --  10 mal-informed. To be honest, those sorts of things do  11 happen.  12 Q. Okay. What about disregard?  13 A. I have experienced something in professional  14 settings that I would categorize as disregard before.  15 Q. Difference in treatment?  16 A. In the sense that not everyone maybe is  17 regarded in the same way, I suppose there's a difference  18 in treatment.  19 Q. Would that be the only difference in treatment  20 you've experienced is disregard?  21 A. I can't recall anything that would kind of not  22 fall -- not, from my perception, fall in that case.  23 Q. Okay. So would it be accurate to summarize  24 that you have not experienced any gender-based  25 discrimination in your education or work career?</p>	<p style="text-align: right;">25</p> <p>1 I was pregnant, especially for my first child, I don't  2 know that at that time that happened for men. So that  3 would have been a difference that came from my  4 Department Chair.  5 Q. Okay. Was that a health difference, a gender  6 difference?  7 A. I don't know. Since that time -- at that time  8 it wasn't as common for men to take Modified  9 Instructional Duty when they were having children.  10 That's more common now. And I think that would play  11 into whether it was a health difference or gender  12 difference; and I will admit to not having picked that  13 apart at the time or since, so I don't know.  14 Q. What about your -- well, let me back off from  15 your personal experience because it sounds like you have  16 not had very many experiences where your gender has been  17 used in such a way that it was a negative experience for  18 you. Would that be fair to say?  19 A. I'm sorry. You're asking whether it's fair to  20 say...  21 Q. That you have not actually had much, if any,  22 negative experiences being a woman in engineering?  23 A. I don't -- I don't think I said that.  24 Q. Okay.  25 A. So I've definitely had negative experiences</p>

<p>26</p> <p>1 being a woman in engineering.</p> <p>2 Q. Okay. What are those negative experiences</p> <p>3 that you've had?</p> <p>4 A. I've received comments from students. I've</p> <p>5 received comments from colleagues, both in UT and out of</p> <p>6 UT. I was going to say "United States and out of</p> <p>7 United States" because sometimes that happens at</p> <p>8 international conferences. I mean, I've had comments, I</p> <p>9 would say, is the most significant negative experience</p> <p>10 that I have had.</p> <p>11 Q. Undervaluing you, or how would you describe</p> <p>12 the comments?</p> <p>13 A. I mean, they're comments that -- you know, I</p> <p>14 wouldn't have said "undervalued." I would have said</p> <p>15 disparaged; or maybe that's too strong of a word, also.</p> <p>16 I would say -- I don't know. I'm sorry. My vocabulary</p> <p>17 is a little dry today. Negative comments. Negative</p> <p>18 comments because of my gender or things that would make</p> <p>19 me feel uncomfortable because of my gender, I guess,</p> <p>20 would be another way to suggest. And everyone likes to</p> <p>21 feel comfortable in their professional spaces, so that's</p> <p>22 what makes them negative.</p> <p>23 Q. Making you think about the fact that you're a</p> <p>24 woman in the space, instead of just being an engineer in</p> <p>25 the space?</p>	<p>28</p> <p>1 area. I'd done a little bit of work on -- or a little</p> <p>2 bit of research, not work, but a little bit of reading</p> <p>3 on inequities in smart cities because, again, that's one</p> <p>4 of my research areas. And I'd done some reading in the</p> <p>5 literature on biases in especially, like, faculty</p> <p>6 recruiting processes because I was chairing the Faculty</p> <p>7 Recruiting Committee; and I wanted to make sure that,</p> <p>8 you know, we were doing a good job there.</p> <p>9 So I wouldn't have said that I was</p> <p>10 anywhere -- and I wouldn't say now that I'm anywhere</p> <p>11 near an expert in the literature, but I had read some</p> <p>12 prior to taking the job and I have read more since.</p> <p>13 Q. And would your reading and research also</p> <p>14 include issues related to retention and not just</p> <p>15 recruiting?</p> <p>16 A. Yes. Are you talking about readings in</p> <p>17 research prior to taking the job or after taking the</p> <p>18 job.</p> <p>19 Q. Both.</p> <p>20 A. So prior, I think I'd read less on retention;</p> <p>21 and since, I've read more, much more on retention.</p> <p>22 Q. And what kind of focus have you had on the</p> <p>23 retention issue related to the studies on gender</p> <p>24 inequities in computing or engineering?</p> <p>25 A. So by "focus," do you mean what activities or</p>
<p>27</p> <p>1 A. That's right.</p> <p>2 Q. As if being a woman was relevant to that</p> <p>3 experience, instead of just being an engineer?</p> <p>4 A. I don't -- actually, I don't know necessarily</p> <p>5 that the comments were at all related to whether or not</p> <p>6 being a woman was relevant in that space, even in the</p> <p>7 minds of the givers of the comments. That puts too much</p> <p>8 credit in the minds of people.</p> <p>9 Q. You mean you're not attributing intent; it</p> <p>10 could have been subconscious?</p> <p>11 A. Yes. I mean, and the fact is I am a woman in</p> <p>12 that space. So in that sense, that is true.</p> <p>13 Q. Fair. Prior to taking this job, and as part</p> <p>14 of the passion that you have for the issue of the under-</p> <p>15 representation of women in engineering, had you educated</p> <p>16 yourself on the studies related to disparities of women</p> <p>17 in engineering and the effects of those on women</p> <p>18 engineers?</p> <p>19 A. Which job are you speaking of, the Associate</p> <p>20 Dean position?</p> <p>21 Q. Yes.</p> <p>22 A. Okay. Yeah. I mean, I specifically had done</p> <p>23 most of my work up to that point on women in computing.</p> <p>24 I was fairly plugged into women in computing, women in</p> <p>25 pervasive computing. That's my particular research</p>	<p>29</p> <p>1 what research? What do you mean by "focus"?</p> <p>2 Q. What issues, maybe, that you and the college</p> <p>3 should be addressing to reduce the negative impact that</p> <p>4 might affect negatively the retention of females in the</p> <p>5 college.</p> <p>6 A. Yeah. Okay. So I think one of the things</p> <p>7 we're working on a lot right now is just even</p> <p>8 understanding what those barriers are, collecting that</p> <p>9 information from people. We have a climate survey open</p> <p>10 right now that's going to help us do some of that.</p> <p>11 Before my taking on this role, they'd, as far as I know,</p> <p>12 never done a climate survey of faculty in the Cockrell</p> <p>13 School. So that's one thing that we've done.</p> <p>14 We've also kind of just looked into best</p> <p>15 practices from other institutions. The University of</p> <p>16 Michigan is one we lean on a lot. You know, what kinds</p> <p>17 of just, you know, actions, activities, policies,</p> <p>18 processes are in place and learning about how we could</p> <p>19 add some of those.</p> <p>20 And then, we have a couple of ideas of</p> <p>21 our own, as well, to kind of look into implementing. I</p> <p>22 don't know if that's answering your question. It was</p> <p>23 kind of a general question.</p> <p>24 Q. Would it be accurate to say that the climate</p> <p>25 study that you say is currently occurring, that would be</p>

<p>30</p> <p>1 an anecdotal gathering?</p> <p>2 A. What do you mean by "anecdotal gathering"?</p> <p>3 Q. You're getting anecdotal information from the</p> <p>4 faculty?</p> <p>5 A. In the sense that anecdotes are, you know,</p> <p>6 bits of stories that people will tell, there is an</p> <p>7 opportunity in the climate survey for people to provide</p> <p>8 those; but there's also a set of, you know, questions</p> <p>9 that we should be able to get some quantitative measures</p> <p>10 from, as well. So we'll be able to look at kind of how</p> <p>11 faculty versus staff versus students answer different</p> <p>12 questions about whether they feel included, whether they</p> <p>13 have the resources that they need to succeed.</p> <p>14 I can't reiterate -- I can't just</p> <p>15 regurgitation all of the questions that are on the</p> <p>16 climate survey right now, but that's the sort of thing.</p> <p>17 We have some numerical questions or some microscale</p> <p>18 questions that we'll be able to run numerics on, as</p> <p>19 well.</p> <p>20 Q. Okay. So is it kind of a combination of</p> <p>21 measurable and anecdotal information?</p> <p>22 A. Uh-huh.</p> <p>23 Q. Okay. And the issues that you're putting in</p> <p>24 the survey, I understand you reached out to Michigan for</p> <p>25 assistance there. Have you looked at the -- any studies</p>	<p>32</p> <p>1 view of the responses from the different groups, and</p> <p>2 then we can start to make decisions about whether or not</p> <p>3 we need to ask tailored questions of different groups</p> <p>4 based on the responses we get.</p> <p>5 Q. You have to have a baseline for your study?</p> <p>6 A. That's right.</p> <p>7 Q. So what activities have you engaged in on the</p> <p>8 retention side for female faculty in the college that</p> <p>9 address some of these known negative impacts that women</p> <p>10 have experienced based upon these studies?</p> <p>11 A. Again, as the Associate Dean for Diversity,</p> <p>12 Equity, and Inclusion, is that what you're asking?</p> <p>13 Q. Yes.</p> <p>14 A. Okay. So in my role as Associate Dean, what</p> <p>15 have I done to address retention of underrepresented</p> <p>16 groups? And, in general, it's generically</p> <p>17 underrepresented groups, although women are definitely</p> <p>18 one of the underrepresented groups. And I think the</p> <p>19 biggest thing we've been trying to do is tackle bias in,</p> <p>20 I'm going to say, personnel processes. The things we've</p> <p>21 done so far have been focused on faculty recruiting.</p> <p>22 I spent the lion's share of my work last</p> <p>23 year focused on faculty recruiting and mitigating bias</p> <p>24 in that faculty recruiting process. I recently started</p> <p>25 pushing for there to be more of that same kind of effort</p>
<p>31</p> <p>1 of the disparity of the female experience in engineering</p> <p>2 faculty that have been published over the last decade or</p> <p>3 so?</p> <p>4 A. I have read many of those studies, yes.</p> <p>5 Q. So things like that women in STEM -- women</p> <p>6 faculty in STEM are rated by students lower than men in</p> <p>7 studies that keep the gender as the only issue change?</p> <p>8 A. Yes. So I'm fully aware of these studies.</p> <p>9 These studies are kind of well-known throughout the</p> <p>10 university, I think.</p> <p>11 Q. Okay. So part of your climate study is</p> <p>12 looking into students' teaching scores of the faculty?</p> <p>13 A. No, unfortunately -- well, not unfortunately.</p> <p>14 No, we decided to keep the climate survey, for now, very</p> <p>15 short. We wanted to maximize response rates. So we</p> <p>16 don't dig in, and it's one climate survey that's gone to</p> <p>17 everyone. So we ask kind of the same questions</p> <p>18 regardless of whether you're faculty, staff, or student;</p> <p>19 and then, we'll partition the responses we get based on</p> <p>20 whether it's from faculty, from staff, or student.</p> <p>21 The idea behind that -- and we had, you</p> <p>22 know, a set of people who were tasked with designing</p> <p>23 that who are more expert in surveys and how to</p> <p>24 administer them; but the rationale behind that was, you</p> <p>25 know, we've not done this before. We'll a get a first</p>	<p>33</p> <p>1 in the faculty annual review process, so the same kind</p> <p>2 of training to recognize biases and to mitigate those</p> <p>3 biases in those processes. I think that, on the</p> <p>4 retention side, would be the -- I'm trying to think if</p> <p>5 there's any other; but I think on the retention side,</p> <p>6 that would be the largest thing that we've done.</p> <p>7 One other thing that we're trying to</p> <p>8 design to do is what we call -- what we're referring to</p> <p>9 as "stay interviews," the idea being, rather than</p> <p>10 waiting for faculty to leave and fail to retain them and</p> <p>11 then ask why are they leaving, find faculty who may have</p> <p>12 had ample opportunity to leave but chose not to and find</p> <p>13 out why they didn't and so try to couple those two</p> <p>14 together so that we can learn more about the situation.</p> <p>15 We haven't designed that yet, but that's one of the best</p> <p>16 practices that we're looking at from other places.</p> <p>17 Q. So a targeted climate study?</p> <p>18 A. Yeah, it would be more like a focus group, an</p> <p>19 interview, right?</p> <p>20 Q. When did you first let Dean Wood know that you</p> <p>21 were interested in leadership roles?</p> <p>22 A. So I participated in a leadership training --</p> <p>23 I hate the word "training" -- but a training program for</p> <p>24 women academics in STEM, in the national program. It</p> <p>25 was a year long, called ELATE -- or it was called</p>



<p>34</p> <p>1 "ELATE" at the time; it's been renamed ELATES.</p> <p>2 Q. How do you spell that?</p> <p>3 A. It's E-L-A-T-E. It's run by Drexel</p> <p>4 University. I spent a year. And it's, you know, you</p> <p>5 read a bunch of, you know, articles about academic</p> <p>6 leadership. We had, I think, three or four onsite</p> <p>7 meetings in Philadelphia with this group of cohort of</p> <p>8 about 20, 22 people, 22 women faculty in STEM, on things</p> <p>9 ranging from, you know, academic budgets to leadership</p> <p>10 styles to -- you know, just what's involved in academic</p> <p>11 leadership.</p> <p>12 And as part of that program, I was asked</p> <p>13 to -- I was asked to interview leaders at all levels of</p> <p>14 the university, right? So I sat with the Dean and my</p> <p>15 Department Chair and the Dean, the Provost, and the</p> <p>16 President for half an hour each, just to kind of have</p> <p>17 these conversations.</p> <p>18 But, on top of that, Dean Wood was</p> <p>19 actually funding my participation in the program; so I</p> <p>20 had several conversations with her. And so it was</p> <p>21 through that program, kind of my exit interview with her</p> <p>22 from the program, like, "Would you recommend it; should</p> <p>23 we do it for other faculty in the college," that I</p> <p>24 expressed to her that I was, in fact, interested in</p> <p>25 positions and, you know, with her being the Dean, if</p>	<p>36</p> <p>1 sounds like 2018 would be, maybe --</p> <p>2 A. Yeah, it was a workshop; but, I mean, though</p> <p>3 summer sounds wrong. That's what sounds wrong to me</p> <p>4 about that.</p> <p>5 Q. Okay.</p> <p>6 A. The workshop started in the summer and we met</p> <p>7 for the first time, probably, in August and then maybe</p> <p>8 met, again, in, like, November and then maybe again --</p> <p>9 I'm guessing, but this is kind of what I remember. I do</p> <p>10 remember that the very last meeting was in March in</p> <p>11 Philly, and there was a massive snowstorm. And the</p> <p>12 deans were all supposed to come for our final project</p> <p>13 presentations and none of them could make it in because</p> <p>14 we had all been in for the week and the snowstorm closed</p> <p>15 the airport. And she was unable to do that, but that</p> <p>16 would have been March. I'm sorry. I would have to look</p> <p>17 back and find the records of what year it was. I don't</p> <p>18 remember when it was, three or four years ago.</p> <p>19 Q. All right. Do you remember -- and I</p> <p>20 understand you say you don't remember, and sometimes</p> <p>21 asking you questions might jog your memory.</p> <p>22 A. That's fine.</p> <p>23 Q. I'm not trying to badger you or anything, just</p> <p>24 offering you opportunities to remember. Do you recall</p> <p>25 if it was before or after Dr. Nikolova went up for</p>
<p>35</p> <p>1 there were opportunities, I was interested in them.</p> <p>2 Q. What year was that you did this program?</p> <p>3 A. I knew you were going to ask that. I don't</p> <p>4 remember. It was a few years ago, maybe three years</p> <p>5 ago.</p> <p>6 Q. I understand that there was a leadership</p> <p>7 workshop that was conducted in the summer of 2018.</p> <p>8 Would that have been part of this program?</p> <p>9 A. Summer of 2018, a leadership workshop. I</p> <p>10 don't know. I'm sorry. I don't know what that's a</p> <p>11 reference to --</p> <p>12 (Simultaneous speakers.)</p> <p>13 Q. -- a workshop with Dean Wood and others?</p> <p>14 A. Would I have been in a workshop with</p> <p>15 Dean Wood?</p> <p>16 Q. And other female university people.</p> <p>17 A. Just in UT? I'm sorry.</p> <p>18 Q. I think there could be other people involved</p> <p>19 besides just UT faculty.</p> <p>20 A. I'm sorry. I...</p> <p>21 Q. Nothing comes to mind?</p> <p>22 A. It doesn't ring a bell for me. That doesn't</p> <p>23 mean anything, right? I participate in a lot of these</p> <p>24 sorts of workshops.</p> <p>25 Q. Okay. But you said three years ago, so it</p>	<p>37</p> <p>1 tenure?</p> <p>2 A. I'm sorry. That doesn't help me jog my</p> <p>3 memory. I do not recall.</p> <p>4 Q. All right.</p> <p>5 A. It was shortly after the new Biomedical</p> <p>6 Engineering Department Chair joined because she also</p> <p>7 attended this program.</p> <p>8 Q. Okay.</p> <p>9 A. So I spoke with her -- well, the first time I</p> <p>10 met her was speaking with her about whether or not this</p> <p>11 was a good idea to do, so.</p> <p>12 Q. And who was that person?</p> <p>13 A. Shelly Sakiyama-Elbert is her name. She's the</p> <p>14 Chair of Biomed.</p> <p>15 Q. Okay.</p> <p>16 A. To be clear, she had done the program at her</p> <p>17 previous academic institution before she joined UT.</p> <p>18 Q. And so it was people from across the country.</p> <p>19 Was it also international?</p> <p>20 A. No -- well, a couple of people from Canada, so</p> <p>21 the same way Major League Baseball is international,</p> <p>22 right?</p> <p>23 Q. Hockey, et cetera. Okay.</p> <p>24 And this leadership group that you were</p> <p>25 working with, it was -- was it focused on looking at</p>



<p style="text-align: right;">38</p> <p>1 moving into administration and it really didn't have a  2 diversity equity component; or how would you describe  3 it?  4 A. Yeah. So I wouldn't -- I wouldn't actually  5 take your statement as truth because I think that the  6 program, its purpose was to prepare women for academic  7 leadership positions, whether classical administration,  8 in the sense of department chairs, deans, associate  9 deans, presidents, whatever or less classical ones,  10 director of the research center. So it was kind of all  11 leadership positions across the board.  12 But on top of that, I will say that in  13 this particular leadership program, there was a  14 definite -- it wasn't solely focused on DEI; but there  15 was a definite philosophy that a good leader is one who  16 masters diversity, equity, and inclusion. And so I  17 would say that it's not possible to divorce that  18 leadership training -- or I would say any leadership  19 training -- from the issues of diversity, equity, and  20 inclusion.  21 Q. And it was targeted at women?  22 A. It was only for women. Everyone who  23 participated was a woman.  24 Q. So that it would presuppose diversity, equity,  25 and inclusion, I would assume?</p>	<p style="text-align: right;">40</p> <p>1 came to campus, but I can't be absolutely certain I  2 didn't meet her as part of her on-campus interview. I  3 don't recall.  4 Q. How many women were in your department when  5 you started?  6 A. When I started, I believe there were three, I  7 think. They were all -- I do know they were all full  8 professors when I started.  9 Q. And since you've gotten there, between when  10 you got there and Dr. Nikolova got there, how many women  11 came?  12 A. Off the top of my head, I can think of one;  13 but I don't know. That's not a definitive answer. I'd  14 have to go back and look at how the faculty changed over  15 that time.  16 Q. Would it be accurate to say that the  17 department has -- or the department has not done a good  18 job of recruiting and retaining women, from your  19 experience?  20 A. I've been in the department for 16 years. I  21 think our efforts at recruiting and retaining women  22 have changed dramatically over that period of time, and  23 so I can't use one blanket statement to characterize all  24 16 years. I think we've done an excellent job recently.  25 I think that in my first several years we did struggle,</p>
<p style="text-align: right;">39</p> <p>1 A. I don't know. I wouldn't -- I don't  2 necessarily agree with what you're saying. I don't  3 necessarily think that it's true to assume that every  4 woman has a bend towards diversity, equity, and  5 inclusion work.  6 Q. No, but that would be a part of the leadership  7 discussion if you focus your communication and program  8 at one particular aspect of --  9 A. Again, I can't agree with that statement just  10 because I can't agree that just because you put a bunch  11 of women in a room and talk about leadership, it's a  12 foregone conclusion that DEI is going to be a part of  13 that, just because women are underrepresented.  14 Q. I thought that's exactly what you said in your  15 answer, that if you're talking about leadership,  16 diversity and inclusion have to be a part of it?  17 A. That is what I said. I said if anyone is  18 talking about leadership, the philosophy of this  19 program -- and I agree with that philosophy personally  20 as a leader -- that if anyone is talking about  21 leadership, that DEI should be a part of it. I don't  22 think that has anything to do with the fact that it was  23 just women in that room.  24 Q. Okay. When did you first meet Dr. Nikolova?  25 A. I'm not sure. I think we first met after she</p>	<p style="text-align: right;">41</p> <p>1 so.  2 Q. And where did you see that change happen?  3 A. What do you mean, where?  4 Q. Where in time did you see that happening?  5 A. Oh, okay. Oh, I would say probably in the  6 last five or six years is when. Probably about the time  7 that Eddie first joined the department was when we kind  8 of really started to see a shift.  9 Q. Okay. And what would you attribute that shift  10 to?  11 A. I don't know. I don't know. I think more  12 conversations and more people of all stripes joining  13 that conversation about how important it was to have a  14 diverse faculty. And so I think, you know, it's one of  15 those: You build critical mass and you build momentum  16 from that critical mass and, you know, snowballs roll  17 down mountains. So I think that's the change we've  18 seen.  19 Q. Prior to Dean Wood coming to you to recruit  20 you for the Assistant Dean position, had you done any  21 work on diversity and inclusion in your department?  22 A. Yes.  23 Q. And what did you do?  24 A. A lot of what I had done was support of our  25 women students, and I am still the advisor for the women</p>

<p style="text-align: right;">42</p> <p>1 in the ECE group. And I give the students a lot of  2 credit for the creation of that group; but the truth is  3 I don't think the group would have started if I hadn't  4 pushed it, you know, as the faculty mentor. And so they  5 just celebrated -- I guess, it was two years ago. I was  6 going to say they just celebrated their ten-year  7 anniversary; but it's twelve now, I think. So I think  8 that was a big step. I think giving our female students  9 that community was really important, and I worked hard  10 to do that.</p> <p>11 I've also worked really hard at trying to  12 broaden participation generally in computing,  13 specifically for -- I think I mentioned this before --  14 underrepresented middle and high school students.</p> <p>15 Q. I asked another bad question.</p> <p>16 A. I'm sorry.</p> <p>17 Q. No, no, it's not you. It was me. I wanted to  18 focus your answer on faculty, not students.</p> <p>19 A. Oh, okay. So your question rephrased would be  20 what have I done within the department to -- I'm sorry.  21 Can you just ask it again? I think that would be better  22 for all of us.</p> <p>23 Q. I don't know if I even remember it.</p> <p>24 MR. NOTZON: Debbie, do you know?</p> <p>25 THE REPORTER: I can read it.</p>	<p style="text-align: right;">44</p> <p>1 A. Well, it's -- it is an annual committee. As  2 long as we have openings to hire, we have the committee;  3 and as far as I can remember back, we've had openings to  4 hire. So we've had the committee every year. I chaired  5 it two years. I'd have to go back and look at my notes  6 to be able to tell you even which two years that was.  7 And then, in addition, I've served on it another couple  8 years as a member of it; but, again, I'd have to go back  9 and look at my notes.</p> <p>10 Q. Would you agree that that was one of the more  11 time-intensive committees?</p> <p>12 A. I would.</p> <p>13 Q. And do you recall Dr. Nikolova being on that  14 committee with you at any time?</p> <p>15 A. I don't recall the membership of the  16 committee, even when I chaired it or didn't chair it. I  17 know that she has served on the committee, and I know  18 that I have served on the committee. So I'm sure it's  19 very likely that we overlapped, but I don't recall.</p> <p>20 Q. How do you recall that she has served on the  21 committee?</p> <p>22 A. Just -- I don't know. I guess maybe I could  23 be wrong about that, also. I don't -- I don't know.</p> <p>24 Q. Okay. I was just wondering, you know, did you  25 know from a list. That's why I was thinking you were on</p>
<p style="text-align: right;">43</p> <p>1 (The requested material was read as  2 follows:  3 "QUESTION: Prior to Dean Wood coming to  4 you to recruit you for the Assistant Dean position, had  5 you done any work on diversity and inclusion in your  6 department?")</p> <p>7 A. Okay. So now, I'm going to add "for faculty,"  8 right, to the question?</p> <p>9 Q. (BY MR. NOTZON) Right.</p> <p>10 A. I would say not a lot. I think that I had  11 done some work when I chaired the Faculty Recruiting  12 Committee to talk -- have conversations within the  13 committee about biases and how biases can creep into  14 that process and why it's important for us to mitigate  15 them. I think that everything else I had done would be  16 characterized as more informal, speaking out in faculty  17 meetings, yeah.</p> <p>18 Q. Being a female presence?</p> <p>19 A. Yeah.</p> <p>20 Q. Okay. Did Dr. Nikolova join you in that  21 faculty recruiting effort? Was she on that committee?</p> <p>22 A. I don't remember. I'm sorry.</p> <p>23 Q. How many times have you been on the Faculty  24 Recruiting Committee? Is it an annual thing that you  25 re-up for?</p>	<p style="text-align: right;">45</p> <p>1 the committee together; if you don't know, you don't  2 know. That's fine.</p> <p>3 A. I don't know.</p> <p>4 Q. How about, do you recall having conversations  5 with Dr. Nikolova about being on the Faculty Recruiting  6 Committee during her probationary period and the time  7 factor involved and how it might impact her?</p> <p>8 A. Yeah, I don't recall having that conversation  9 with Dr. Nikolova.</p> <p>10 Q. Okay.</p> <p>11 MS. HILTON: Robert, whenever it's  12 convenient, maybe in the next few questions, can we take  13 a break? We've been going for about an hour.</p> <p>14 MR. NOTZON: We have to break for an  15 hour?</p> <p>16 MS. HILTON: Oh, no. We've been going  17 for about an hour.</p> <p>18 MR. NOTZON: Oh, okay. I'm sorry. I  19 didn't hear you. I'm like, what? No, we can take a  20 break.</p> <p>21 MS. HILTON: Perfect. Thanks.</p> <p>22 MR. NOTZON: I'm sorry. I just didn't  23 hear you.</p> <p>24 MS. HILTON: No, that's fine.</p> <p>25 MR. NOTZON: All right.</p>

<p style="text-align: right;">46</p> <p>1 THE REPORTER: We're going off the record</p> <p>2 at 10:56 a.m.</p> <p>3 (Off the record from 10:56 to 11:10 a.m.)</p> <p>4 THE REPORTER: We're back on the record</p> <p>5 at 11:10 a.m.</p> <p>6 Q (BY MR. NOTZON) Okay. We're back from the</p> <p>7 break; and just to clarify, Professor, the start of your</p> <p>8 position as an Associate Dean, when you started as an</p> <p>9 Assistant Dean, that was the first time that the School</p> <p>10 of Engineering had ever done that, correct?</p> <p>11 A. Yes, I was the first person in that role. Can</p> <p>12 you hear me?</p> <p>13 Q. Yes, I can.</p> <p>14 A. Okay. Just making sure.</p> <p>15 Q. And do you recall -- or do you understand that</p> <p>16 the start of that position is, in part, related to</p> <p>17 Dr. Nikolova's complaint stemming from her denial of</p> <p>18 promotion in the spring of 2019?</p> <p>19 MS. HILTON: Objection, form.</p> <p>20 A. I was not told that was a reason for the</p> <p>21 position. I didn't know that. I don't know that to be</p> <p>22 true.</p> <p>23 Q (BY MR. NOTZON) Okay. Temporally, it lines</p> <p>24 up though, correct?</p> <p>25 A. In the sense that the position was created</p>	<p style="text-align: right;">48</p> <p>1 in engineering, I didn't go further and ask you what</p> <p>2 were those negative experiences that you specifically</p> <p>3 had at UT from faculty, not from students.</p> <p>4 A. So you're asking me now to relay the</p> <p>5 experiences that I had at UT?</p> <p>6 Q. Yes, please.</p> <p>7 A. Okay. Yeah, so I've had a case where a</p> <p>8 faculty member -- a female faculty member was with me;</p> <p>9 and another male faculty member commented on how nice</p> <p>10 she looked in bike shorts. I thought that was a</p> <p>11 negative experience.</p> <p>12 Q. I'd like names, please.</p> <p>13 A. Oh, okay. Well, this was during my</p> <p>14 interview as an Assistant Professor. The woman that was</p> <p>15 with me -- she was dropping me off -- was Rebecca</p> <p>16 Richards-Kortum. She's no longer at UT. And Yale Patt</p> <p>17 was the person who made the comment to her. So that was</p> <p>18 one.</p> <p>19 In the very first faculty meeting I</p> <p>20 attended in my department, an older faculty member,</p> <p>21 who -- I don't remember who it was. I remember that it</p> <p>22 was an older male -- white male faculty member said to</p> <p>23 me, earnestly and genuinely, "If you're here and your</p> <p>24 husband is also at work, who's at home taking care of</p> <p>25 cooking and cleaning?" And so that's...</p>
<p style="text-align: right;">47</p> <p>1 after the lawsuit, yes.</p> <p>2 Q. After she complained, not after the lawsuit.</p> <p>3 A. I'm sorry. You're right. After she</p> <p>4 complained. Yes, you have the dates correct for those</p> <p>5 things.</p> <p>6 Q. It was only a few months from her denial of</p> <p>7 promotion and her raising the issues of gender and</p> <p>8 pregnancy discrimination to CCAFR and CCAFR's request</p> <p>9 that efforts be made to address, study, and look at</p> <p>10 those issues that your position was created, correct?</p> <p>11 A. I don't know the specific dates of those; but</p> <p>12 if those are the dates, that's the order it happened in.</p> <p>13 Q. Okay. Would it be accurate that you had not</p> <p>14 heard of any efforts -- given your passion for the topic</p> <p>15 over the years, that you had not heard any efforts from</p> <p>16 the College of Engineering to create this position prior</p> <p>17 to the Spring of 2019?</p> <p>18 A. I had not heard of any efforts of the college</p> <p>19 to create this position, that's correct.</p> <p>20 Q. Prior to the Spring of 2019?</p> <p>21 A. I'm sorry, yes. Prior to the Spring of 2019,</p> <p>22 yeah.</p> <p>23 Q. Earlier when you talked about that you had had</p> <p>24 some negative -- negative comments, I think, was the</p> <p>25 only experience you had at UT related to being a woman</p>	<p style="text-align: right;">49</p> <p>1 And then others are I've had negative</p> <p>2 comments or at least comments that made me uncomfortable</p> <p>3 on my course instructor evaluations from students.</p> <p>4 Q. From faculty.</p> <p>5 A. Okay. I'm sorry.</p> <p>6 Q. Faculty or administration.</p> <p>7 A. I've never experienced any from the</p> <p>8 administration I can say for certain.</p> <p>9 And those are the ones that stick in my</p> <p>10 head that I would construe as negative experiences,</p> <p>11 negative comments; and I just thought of another one. A</p> <p>12 comment was made in my presence about another female</p> <p>13 faculty member who was single, and it was just another</p> <p>14 male faculty member who I don't remember. I'm sorry.</p> <p>15 You wanted names. The female faculty member in question</p> <p>16 was Margarida Jacome -- she's passed away since -- and I</p> <p>17 don't remember the male faculty member who made the</p> <p>18 comment. But basically it was something to the effect</p> <p>19 of: She's single. She's always been single. I wonder</p> <p>20 why she's not married. She seems like quite a catch.</p> <p>21 So I think that -- the fact that the comments stick with</p> <p>22 me is what kind of labels them, in my mind, as negative,</p> <p>23 so.</p> <p>24 Q. I was steeling myself for the comment --</p> <p>25 A. I know. I'm sorry. I didn't deliver.</p>

<p>50</p> <p>1 Q. -- that you didn't deliver. I mean, a guy's a 2 catch, too. So, anyway. All right. 3 A. Well, yeah. Sorry. 4 Q. So that would be the sum total of negative 5 experiences that you've had from faculty members that 6 you can recall, sitting here today, at UT? 7 A. That's what I can recall from at UT, faculty 8 members, negative experiences, yes. 9 Q. Okay. Let me broaden the question to what 10 you've observed. Negative experiences from other 11 women -- that you've observed other women to have 12 experienced. And I understand the shorts comment would 13 fall in there. 14 A. Okay. So some of these were other women 15 experiencing them. 16 Q. But, yeah, that other women experienced or 17 directed at other women that you're aware of. 18 A. That I'm aware of, I guess, is different than 19 observing, right? 20 Q. Sure. Let's start with observed. 21 A. I think I covered the ones that I observed 22 just because, as an observer, I find them to be negative 23 experiences myself, so. 24 Q. Yeah. 25 A. I can't think of others that I've observed.</p>	<p>52</p> <p>1 Q. Given your field. Okay. Understood. 2 Any others that you've observed, and then 3 we'll move to the broader category of -- well -- 4 A. Again, we're still talking about faculty, 5 right? Faculty on faculty, if you will? 6 Q. Yes. 7 A. Yeah, I think that's pretty much what I can 8 recall. 9 Q. All right. So the next broadening would be 10 not that you're aware of -- I think that would be the 11 last broadening category. The next would be that you 12 have heard about from the woman. 13 A. So cases where a woman has said something to 14 me about... 15 Q. Their negative experience. 16 A. Negative experience. I mean, there's 17 obviously -- 18 Q. Sticking with the faculty, still. 19 A. Faculty on faculty or administration? 20 Q. Yes, faculty and above. 21 A. So there's, obviously, the cases that Eddie 22 brought up, so Eddie expressing a concern that the 23 tenure decision was related to her gender or an 24 implication that that might happen. 25 Q. Let's leave Dr. Nikolova off to the side.</p>
<p>51</p> <p>1 Q. Okay. And I want to make sure that we're not 2 just talking about comments. We're talking about any 3 negative experience that you, from your experience, may 4 attribute to gender. 5 A. Yeah. So some things I would attribute to 6 gender have come up over time in faculty recruiting; and 7 one way this comes up that I see as a negative that I 8 think is gender based is when we're discussing hiring a 9 female faculty member, the conversation will turn to 10 what her husband does and whether he also needs a 11 position. And, again, it's my perception that that 12 tends to happen much more frequently for women than it 13 does for men. 14 Q. Yeah, but it's both ways, right, because you 15 could ask that question both ways? 16 A. Either way, yeah. 17 Q. But it doesn't happen -- 18 A. Yeah. 19 Q. -- from your experience? 20 A. It has happened the other way, also. It just 21 seems to happen, in my perception, more frequently when 22 the person we're considering is a woman. 23 Q. A non-scientific study? 24 A. Completely non-scientific. I'm almost 25 embarrassed by it.</p>	<p>53</p> <p>1 A. Okay. 2 Q. And we'll talk about those separate -- 3 A. Okay. 4 Q. -- if that's okay with you. 5 A. Sure. 6 Q. Okay. 7 A. So there was another female faculty member, 8 who she left; she went to UCLA. Her name is Miryung 9 Kim. We were close friends -- or we are close friends. 10 And I'm trying to recall if we've had conversations 11 about concerns about faculty, and I don't recall any. 12 If we broaden it to students, I can 13 discuss that. I'm sorry. I don't have any others. 14 Q. So would it be Dr. Kim? 15 A. Dr. Kim, yes. 16 Q. Okay. Was Dr. Kim -- and that's her last 17 name? 18 A. Her last name. Miryung is her first name. 19 Q. Okay. You know, it could be confused -- 20 A. Yeah. 21 Q. -- in the English-speaking world, most likely 22 the United States. 23 Dr. Kim, so she left. She had a negative 24 gender experience, but it wasn't with a colleague or 25 administration?</p>

<p>54</p> <p>1 A. I think her struggles were with students --</p> <p>2 she had some concerns about students that she related to</p> <p>3 me.</p> <p>4 Q. Students were mistreating her as a woman?</p> <p>5 A. I think that she -- the way that I had</p> <p>6 interpreted the conversations that she and I had was</p> <p>7 that the students were responding to her differently</p> <p>8 than they would a male instructor.</p> <p>9 Q. Okay. And just to -- I don't want to get into</p> <p>10 any details, necessarily. This would be a non-sexual</p> <p>11 difference in treatment?</p> <p>12 A. Yes. Although, I just now, through this</p> <p>13 conversation, remembered another female colleague</p> <p>14 mentioning a sexual difference in treatment from</p> <p>15 students, as well, so.</p> <p>16 Q. But finishing with Dr. Kim, it was more her</p> <p>17 interactions with the students and feeling not</p> <p>18 respected, like she felt like a male professor would?</p> <p>19 A. She felt the students treated her differently,</p> <p>20 expected different things from her, because she was a</p> <p>21 woman, than they would a male instructor.</p> <p>22 Q. All right. And what is the other individual</p> <p>23 that you just remembered?</p> <p>24 A. I'm sorry, yeah. The other person is Mary</p> <p>25 Eberlein.</p>	<p>56</p> <p>1 package, kind of in that timeframe; but I think it was</p> <p>2 more implied than explicit.</p> <p>3 Q. Do you remember the context?</p> <p>4 A. Yeah. The context was -- so one of the</p> <p>5 contexts was around course instructor evaluation; and</p> <p>6 she asked me the question had I ever -- did I feel like</p> <p>7 my course instructor evaluation scores, like, the</p> <p>8 numeric scores were different because I was pregnant.</p> <p>9 And so I kind of took from that -- she didn't explicitly</p> <p>10 say so, but I took from that an implication that she</p> <p>11 wondered if maybe hers were.</p> <p>12 Q. And that's the student scores?</p> <p>13 A. That's the student scores, yeah. I'm sorry.</p> <p>14 I keep mixing this up. You're asking specifically about</p> <p>15 faculty?</p> <p>16 Q. No, no, no, I want anything gender related</p> <p>17 between -- that Dr. Nikolova and you discussed.</p> <p>18 A. Okay. So there was that.</p> <p>19 Q. And what was your response?</p> <p>20 A. No, I did not feel that was the case.</p> <p>21 Q. Okay. Had you been aware of any studies where</p> <p>22 that was identified as a factor, gender?</p> <p>23 A. Gender for sure. Actually, that was the first</p> <p>24 time I had considered pregnancy, when she asked; and I</p> <p>25 am not aware of any studies that looked at pregnancy</p>
<p>55</p> <p>1 Q. Okay.</p> <p>2 A. She was a non-tenure track, so a teaching-</p> <p>3 track faculty, which means her role is solely teaching;</p> <p>4 there's no research portion of it. And, yeah, she was</p> <p>5 treated differently in the classroom, effectively asked</p> <p>6 out on a date by a student.</p> <p>7 Q. Okay. All right. And so that's the sum total</p> <p>8 of your experiences where a female has complained to you</p> <p>9 about being mistreated as a female in the department by</p> <p>10 faculty -- well, that was a student one; but, yeah.</p> <p>11 So if we broaden it to "aware of," are</p> <p>12 there any others out there that are women faculty that</p> <p>13 had issues with being treated differently because</p> <p>14 they're women, from faculty or above?</p> <p>15 A. Yeah. I don't -- I can't recall any</p> <p>16 additional ones.</p> <p>17 Q. Okay. With Dr. Nikolova, going back to</p> <p>18 her, what was the first time that you recall her</p> <p>19 mentioning -- well, the first time you observed or the</p> <p>20 first time you mentioned -- she mentioned to you that</p> <p>21 she felt like her gender may have been a factor when it</p> <p>22 shouldn't have been?</p> <p>23 A. I think the first time I recall it being</p> <p>24 explicitly mentioned was near when she was, like, just</p> <p>25 finishing her third-year review and preparing her tenure</p>	<p>57</p> <p>1 specifically. That doesn't mean they don't exist. But,</p> <p>2 yeah, I was aware at the time when she asked and</p> <p>3 probably included this in my response to her that there</p> <p>4 were studies that showed that women do tend to receive</p> <p>5 statistically lower course instructor evaluations when</p> <p>6 you've controlled for everything else; but, again, that</p> <p>7 hasn't been my experience. But, I mean, I'm comparing</p> <p>8 myself to myself, right? So I don't know.</p> <p>9 Q. How do you know, right?</p> <p>10 A. Yes, there's no way to know for one</p> <p>11 individual. So you can only look at that, really, for</p> <p>12 that. That's why the studies include scores from a</p> <p>13 broad range of institutions.</p> <p>14 Q. So, from your own experience, either you're</p> <p>15 not being under scored because you're a female or</p> <p>16 because you were pregnant at the time; or you actually</p> <p>17 should be getting higher scores than you're getting.</p> <p>18 And you're doing really well?</p> <p>19 A. Right -- well, I guess. I mean, my scores are</p> <p>20 high, to begin with.</p> <p>21 Q. That's what I'm saying.</p> <p>22 A. Yeah, so.</p> <p>23 Q. You're doing very well, but maybe you should</p> <p>24 be doing even better?</p> <p>25 A. Yes, there is no way to know.</p>

<p>58</p> <p>1 Q. Right. Other than -- I mean, let's talk about 2 the studies, right? Do you -- the studies you've read 3 and that you've looked at, are they peer reviewed? Are 4 they credible, reliable sources of information that you 5 use in your job as Associate Dean?</p> <p>6 A. Yes.</p> <p>7 Q. So, you know, there's no way to know; but 8 there is a way to know that, when you read these studies 9 and they exist and they're replicated and they're peer 10 reviewed, doesn't that, in fact, tell you that you know 11 that you've been under scored?</p> <p>12 A. No. So the studies specifically don't say 13 anything for any particular individual. The studies say 14 something for an average and they are peer reviewed and 15 they are robust studies, which means they have 16 statistical significance, which means they're covering a 17 very, very large sample and controlling for all kinds of 18 things. Again, not my area; but I understand and trust 19 the venues that they've been published into and that of 20 this research. And I think that the understanding and 21 the application is in the aggregate. The application is 22 not to the individual.</p> <p>23 Q. Okay. So despite the fact that you're a woman 24 in STEM and you're teaching and you get scores, just 25 because that study is robust and says, you know, on the</p>	<p>60</p> <p>1 at the study?</p> <p>2 A. I think that, in my opinion, and I think the 3 way we're trying to push policy at the university is 4 that the scores are not the be-all, end-all evaluation 5 of teaching. So, yes, you have to look at a wide 6 variety of things.</p> <p>7 Q. Put the scores in context?</p> <p>8 A. Correct.</p> <p>9 Q. Okay. Recognizing that the scores are not 10 necessarily gender-free measures of performance?</p> <p>11 MS. HILTON: Objection, form.</p> <p>12 A. The scores should be placed in context because 13 there's a lot of different reasons why they are not 14 perfect measures of teaching performance and outcomes, 15 learning outcomes, and all kinds of different things, 16 not just gender. Gender is one piece. Race is a piece. 17 Difficulty of course is a piece. Whether or not the 18 course is required is a piece. These all play into 19 under scoring or over scoring an instructor for a 20 particular course.</p> <p>21 Q. (BY MR. NOTZON) And since Dr. Nikolova's 22 issue about pregnancy, have you determined that 23 pregnancy is also an issue that's been studied?</p> <p>24 A. I haven't. I believe that when she asked me 25 this question, I did try to find some studies on this;</p>
<p>59</p> <p>1 average, women are under scored compared to men just 2 because of their gender, your experience could -- is not 3 mandated to have that average result? You could be not 4 under scored at all, from your personal experience. 5 That's what you're saying, right?</p> <p>6 A. Yes. What I'm saying is that the aggregate 7 study says that, on average, women are under scored, 8 which basically means quite likely that some women are 9 not under scored at all -- and, perhaps, might be over 10 scored -- and some other women are under scored 11 dramatically, right? And it all averages out to, on 12 average, under scoring.</p> <p>13 Q. Okay. And so if you were to -- so what you 14 can say is, conclusively, you don't know what's going on 15 with you; but there's a chance that you're being under 16 scored, based upon the study?</p> <p>17 MS. HILTON: Objection, form.</p> <p>18 A. I would say that, based on the study, what the 19 study says, is that there is a higher likelihood that I 20 am being under scored than my white, male colleague, 21 teaching the same class.</p> <p>22 Q. (BY MR. NOTZON) And if you wanted to look at 23 your personal experience and whether or not you're being 24 under scored, you'd have to look at other data. You 25 can't just look at your scores, and you can't just look</p>	<p>61</p> <p>1 and I don't recall finding any. But I maybe missed 2 them, or I don't know. But I haven't seen any, you 3 know, peer-reviewed studies on the same -- on that topic 4 in the same way that they do gender. It's possible it's 5 because, specifically, there's not enough data. I don't 6 know.</p> <p>7 Q. Or you haven't seen it because you haven't 8 looked for it since, and they've now come up with it?</p> <p>9 A. Yeah.</p> <p>10 Q. Would that be accurate that since Dr. Nikolova 11 raised it, you haven't looked up that issue?</p> <p>12 A. I don't know. I do a lot of looking for bias 13 in course instructor ratings, bias in faculty 14 evaluations, bias in all kinds of things. It's part of 15 my job to do that. I don't believe I've done a specific 16 Google search for, you know, impact of pregnancy on 17 course instructor evaluations; but it's possible that 18 I've come across some literature and forgotten it since 19 then.</p> <p>20 Q. And based on pregnancy, do you believe that 21 that could be a factor?</p> <p>22 MS. HILTON: Objection, form.</p> <p>23 A. You're asking whether I believe pregnancy 24 could be a factor in students' course instructor 25 evaluations?</p>



<p style="text-align: right;">62</p> <p>1 Q. (BY MR. NOTZON) Yes.</p> <p>2 A. I believe that anything a student can perceive</p> <p>3 in the classroom could impact how they rate the</p> <p>4 instructor, so. I mean, I've gotten lower or higher --</p> <p>5 I'm not sure -- ratings based on a pair of boots that I</p> <p>6 wear to class on a regular basis. So it's unclear how</p> <p>7 it would impact the course instructor evaluations, to</p> <p>8 me.</p> <p>9 Q. Is this another one of your non-scientific --</p> <p>10 A. Yes. I mean, yes. Yeah.</p> <p>11 Q. Okay. Is part of your role as Associate</p> <p>12 Dean identifying sources of bias in recruitment and</p> <p>13 retention --</p> <p>14 A. Yes.</p> <p>15 Q. -- and trying to deal with it?</p> <p>16 A. Yes.</p> <p>17 Q. And what would you -- what could you say are</p> <p>18 some of the sources of bias in retention issues?</p> <p>19 A. So the way that bias can impact retention, I</p> <p>20 think --</p> <p>21 Q. I'm sorry. I used the word "source." I</p> <p>22 really meant "signs," like, the existence of bias, not</p> <p>23 where it comes from.</p> <p>24 A. Okay. So I think bias -- bias can impact</p> <p>25 retention specifically in how it's used to rate faculty,</p>	<p style="text-align: right;">64</p> <p>1 of a difference in treatment or this person's allowed</p> <p>2 to, you know, do something, turn in late -- turn in</p> <p>3 their information late and this person isn't and the</p> <p>4 difference -- you know, so a difference in treatment</p> <p>5 might be a sign of bias.</p> <p>6 A. I'm still confused if you're asking about</p> <p>7 whether the difference in treatment is a sign of bias or</p> <p>8 if bias is causing the difference in treatment.</p> <p>9 Q. The first.</p> <p>10 A. So if I notice a difference in treatment -- I</p> <p>11 can say these two people were clearly treated</p> <p>12 differently -- and then I ask whether or not that was</p> <p>13 caused by bias, this is your question, what are we doing</p> <p>14 on that?</p> <p>15 Q. No, that just identifying a difference in</p> <p>16 treatment is a sign that bias might be in play; and are</p> <p>17 there other things that you're looking for besides</p> <p>18 differences in treatment?</p> <p>19 A. I'm not trying to be dense. I really just</p> <p>20 don't understand what you're asking. I'm sorry.</p> <p>21 Q. Well, let me ask if you agree that a</p> <p>22 difference in treatment between two faculty members of</p> <p>23 different genders could be a sign that bias is in play.</p> <p>24 Is that accurate?</p> <p>25 A. If two faculty members are treated</p>
<p style="text-align: right;">63</p> <p>1 I think. I think other issues related to DEI might also</p> <p>2 impact retention, but I'll answer specifically for bias.</p> <p>3 Q. Let me stop you.</p> <p>4 A. Okay.</p> <p>5 Q. Let me re-ask the question because that was</p> <p>6 really disjointed. I apologize.</p> <p>7 So when you're looking at a situation</p> <p>8 within faculty-to-faculty or faculty-to-administration</p> <p>9 interaction and you're trying to eliminate the</p> <p>10 possibility or existence of bias, what are you looking</p> <p>11 for in terms of the signs that might indicate that bias</p> <p>12 is present?</p> <p>13 MS. HILTON: Objection, form.</p> <p>14 A. I think I'm still confused about your</p> <p>15 question. So I'm looking at -- observing or listening</p> <p>16 to a report of an interaction between two faculty</p> <p>17 members and asking whether or not bias impacted that</p> <p>18 interaction?</p> <p>19 Q. (BY MR. NOTZON) That could be one or, like I</p> <p>20 think you said, an example would be that -- you know,</p> <p>21 for example, one faculty member in a particular</p> <p>22 situation -- let's say, for example, one faculty member</p> <p>23 is given an assignment and another faculty is not given</p> <p>24 an assignment and the only difference between the two</p> <p>25 are their gender or their race or, you know, that kind</p>	<p style="text-align: right;">65</p> <p>1 differently, there could be bias behind the different</p> <p>2 treatment, yes.</p> <p>3 Q. Okay. And so the question will be if a male</p> <p>4 and a female are treated differently, there could be</p> <p>5 bias.</p> <p>6 The next question: If every time -- like</p> <p>7 the timing of events, every time something happens for a</p> <p>8 woman, this is the result; and so it's also a difference</p> <p>9 in treatment. But every time it happens to a man,</p> <p>10 nothing happens. So I guess that's also a difference in</p> <p>11 treatment, but there's a timing issue involved in</p> <p>12 identifying the bias. Would you agree that that could</p> <p>13 also form a sign of bias?</p> <p>14 MS. HILTON: Objection, form.</p> <p>15 A. Anytime two people are treated differently,</p> <p>16 bias could be one explanation for the difference in</p> <p>17 treatment if there's something else that's different</p> <p>18 about them, race or gender or disability. It's not</p> <p>19 necessarily the case that bias is the reason for the</p> <p>20 different treatment, but it's possible that bias is the</p> <p>21 difference.</p> <p>22 Q. (BY MR. NOTZON) If there's a false</p> <p>23 explanation that's provided to justify the difference in</p> <p>24 treatment, would that also lend credence to the</p> <p>25 possibility that bias was at play?</p>



<p>66</p> <p>1 MS. HILTON: Objection, form.</p> <p>2 A. I don't believe that if there's a false</p> <p>3 explanation, that there's any more justification --</p> <p>4 like, any more strength in the belief that it was bias</p> <p>5 versus not. I don't think that would change the</p> <p>6 potential for bias impacting the decision.</p> <p>7 Q. (BY MR. NOTZON) Why is that? Why does that</p> <p>8 not increase the chance of bias?</p> <p>9 A. Because the explanation happens after; the</p> <p>10 bias comes before.</p> <p>11 Q. Right, but the explanation could be trying to</p> <p>12 hide the bias.</p> <p>13 A. It could be trying to hide the bias. It could</p> <p>14 be trying to hide something else. It could be a</p> <p>15 mistake. I think reading into that would be beyond -- I</p> <p>16 don't think it changes the likelihood that bias</p> <p>17 influenced the decision in the first place. That's my</p> <p>18 opinion.</p> <p>19 Q. The likelihood of finding or the likelihood</p> <p>20 that the bias was there or identifying -- it doesn't</p> <p>21 help you identify that somebody could be trying to hide</p> <p>22 something that they know to be improper or illegal</p> <p>23 behavior?</p> <p>24 MS. HILTON: Objection, form.</p> <p>25 A. Can you -- so can you -- help me with the</p>	<p>68</p> <p>1 gender is wrong.</p> <p>2 Q. Right. And when called out on it, might want</p> <p>3 to deny that their actions were gender-based bias?</p> <p>4 MS. HILTON: Objection, form.</p> <p>5 A. Many people believe -- and the research backs</p> <p>6 this up -- that those engaging -- so people who engage</p> <p>7 in bias, making bias-influenced decisions do not realize</p> <p>8 that they are doing it. And that's the nature of bias.</p> <p>9 And when confronted with it, they still don't believe</p> <p>10 that they engaged in biased behavior, genuinely don't</p> <p>11 believe that they engaged in biased behavior. There's</p> <p>12 plenty of research that shows that this is the case.</p> <p>13 Q. (BY MR. NOTZON) So they will deny it.</p> <p>14 Whether they believe it or not, they would deny it?</p> <p>15 MS. HILTON: Objection, form.</p> <p>16 A. A person who -- I'm sorry. I'm not exactly</p> <p>17 sure what you're asking; but a person who engages -- has</p> <p>18 bias, which is -- you know, all of us have bias and if</p> <p>19 that bias influences a decision in an unmitigated way,</p> <p>20 in some cases people will not recognize that they did</p> <p>21 it, even when confronted with it.</p> <p>22 Q. (BY MR. NOTZON) Right. So they'll either</p> <p>23 deny it because they don't recognize it as being bias or</p> <p>24 they'll deny it because they don't want to be held</p> <p>25 accountable for it or they'll deny it because they don't</p>
<p>67</p> <p>1 pronouns in your question so I can make sure I'm</p> <p>2 answering the right thing?</p> <p>3 Q. (BY MR. NOTZON) Sure. So you would agree</p> <p>4 that when somebody engages in gender-based bias, that</p> <p>5 they would know that that is not appropriate?</p> <p>6 MS. HILTON: Objection, form.</p> <p>7 A. Most of the time -- I don't even know if it's</p> <p>8 most of the time. It is possible that when someone</p> <p>9 engages in gender bias, they know it's inappropriate.</p> <p>10 Q. (BY MR. NOTZON) If not before they do it,</p> <p>11 after they do it?</p> <p>12 MS. HILTON: Objection, form.</p> <p>13 A. In my experience, personal experiences, people</p> <p>14 will engage in bias and not realize that it's wrong,</p> <p>15 even when confronted with an accusation of -- even when</p> <p>16 confronted with an accusation of participating in bias</p> <p>17 and acknowledging that they did it, they don't</p> <p>18 acknowledge that it's wrong.</p> <p>19 Q. (BY MR. NOTZON) Okay. And that's some</p> <p>20 percentage of the time, but you --</p> <p>21 A. It has happened. It's a non-zero percentage.</p> <p>22 Q. Yeah, but you wouldn't say it's the majority</p> <p>23 of the time?</p> <p>24 A. It's not the majority of the time. Most</p> <p>25 people realize that treating people different because of</p>	<p>69</p> <p>1 want to admit it?</p> <p>2 MS. HILTON: Objection, form.</p> <p>3 Q. (BY MR. NOTZON) Those are possibilities,</p> <p>4 right?</p> <p>5 MS. HILTON: Same objection.</p> <p>6 A. If a person is confronted and accused of being</p> <p>7 biased, they can say lots of things; and all of -- they</p> <p>8 could say: Yes, I was. Thank you. They could say:</p> <p>9 No, I wasn't. They could say: No, I wasn't but know</p> <p>10 that they were. So, yes, these are possibilities.</p> <p>11 Q. (BY MR. NOTZON) And in that denial, they</p> <p>12 could provide a false explanation to justify their</p> <p>13 denial?</p> <p>14 MS. HILTON: Objection, form.</p> <p>15 A. Yes, they could.</p> <p>16 Q. (BY MR. NOTZON) And if you could prove that</p> <p>17 they knew that the justification they gave was false,</p> <p>18 because they also have the true answer, would that be</p> <p>19 some indication that bias was at play?</p> <p>20 A. No, you'd have to prove that they were biased</p> <p>21 in the first place, I think, in order to make an</p> <p>22 accusation that they were covering.</p> <p>23 Q. They know the true answer when they gave the</p> <p>24 false answer. That would not be --</p> <p>25 A. Sorry.</p>

<p style="text-align: right;">70</p> <p>1 MS. HILTON: Objection, form.</p> <p>2 A. Ask it, again, please. I'm sorry.</p> <p>3 Q (BY MR. NOTZON) I was trying to provide you</p> <p>4 with that evidence that you said that you have to prove</p> <p>5 that they knew that they were engaged in bias before</p> <p>6 they did it. And I said the evidence is in the</p> <p>7 knowledge of the truthful reason why they took the</p> <p>8 action and the knowledge that the false answer they gave</p> <p>9 was false at the time they gave it.</p> <p>10 A. They would need to --</p> <p>11 MS. HILTON: Objection, form.</p> <p>12 THE WITNESS: Sorry.</p> <p>13 MS. HILTON: Go ahead, Dr. Julien.</p> <p>14 A. They would need to know that the explanation</p> <p>15 they were giving is false. They might not know that the</p> <p>16 explanation that they're giving is false.</p> <p>17 Q (BY MR. NOTZON) Right. I said -- I mandated</p> <p>18 in the hypothetical that they know it's false because</p> <p>19 they know the true answer.</p> <p>20 MS. HILTON: Objection, form.</p> <p>21 A. I mean, we've wandered into a very special</p> <p>22 case that's different from bias influencing decisions.</p> <p>23 So I think we may have wandered away. I'm not exactly</p> <p>24 sure what track we're on, like, what the whole setup for</p> <p>25 this is. So I can't answer this hypothetical --</p>	<p style="text-align: right;">72</p> <p>1 to look into it because bias might be at play, not was</p> <p>2 at play, not to conclude, but to look into it?</p> <p>3 A. So we use statistics all the time to ask these</p> <p>4 questions of our various processes, and those statistics</p> <p>5 can give us an indication as to whether or not bias is</p> <p>6 at play.</p> <p>7 Q. Okay. And you use that in your role as</p> <p>8 Associate Dean?</p> <p>9 A. Yes.</p> <p>10 Q. And what statistics have you looked at to</p> <p>11 determine -- specifically related to gender bias since</p> <p>12 you've had the role?</p> <p>13 A. Yes. So top of mind is faculty recruiting.</p> <p>14 So we'll look at -- for faculty recruiting, we will look</p> <p>15 at the statistics related to the applicant pool; and we</p> <p>16 will -- we try not to ever look at a single year,</p> <p>17 because, just like the examples with Course Instructor</p> <p>18 Surveys, looking at a single person can be misleading.</p> <p>19 So we look over multiple years. We try to look across</p> <p>20 departments so that we get kind of as broad a view as we</p> <p>21 can. We look at applicant pools.</p> <p>22 We look at what we call "short lists" in</p> <p>23 our Faculty Recruiting Committee. So we take the broad</p> <p>24 applicant pool, and we try to carve out kind of a set of</p> <p>25 candidates that we're particularly interested in. So</p>
<p style="text-align: right;">71</p> <p>1 Q. Okay.</p> <p>2 A. -- without a clear background.</p> <p>3 Q. Or a clearer example.</p> <p>4 Would statics help you understand that</p> <p>5 bias is at play?</p> <p>6 A. Statics about what?</p> <p>7 Q. So if there are, you know, fifty men hired for</p> <p>8 a position and only one woman, might bias be something</p> <p>9 that you might want to look into?</p> <p>10 A. So you're asking specifically about bias in</p> <p>11 the faculty recruiting process?</p> <p>12 Q. No, this is just in general. If a hundred men</p> <p>13 are hired for a position or fifty men are hired for a</p> <p>14 position and one woman is hired for that position, would</p> <p>15 you want -- or would that indicate to you that bias</p> <p>16 might be at play?</p> <p>17 A. There's not enough information in that</p> <p>18 statistic. You don't know what the applicant pool</p> <p>19 looked like. I mean, statistics can help to answer that</p> <p>20 kind of abstract question. Statistics can be useful in</p> <p>21 teasing out whether bias is at play, but you have to</p> <p>22 make sure you have the right statistics and that they're</p> <p>23 capturing what you need to capture in order to evaluate</p> <p>24 the bias.</p> <p>25 Q. My question is: Would that cause you to want</p>	<p style="text-align: right;">73</p> <p>1 we'll look at the statics. And when I say "statistics,"</p> <p>2 I'm talking about demographics.</p> <p>3 And so specific to your question, we</p> <p>4 might be looking at men and women or people who identify</p> <p>5 as women and people who identify as men, to be specific</p> <p>6 and completely clear, in the applicant pool in that</p> <p>7 short list of candidates.</p> <p>8 Then, we'll look at the candidates that</p> <p>9 we decide to bring on campus. We will look at</p> <p>10 specifically the candidates we decide to make offers</p> <p>11 to -- that's what I look at -- which is slightly</p> <p>12 different than the candidates we make offers to for a</p> <p>13 variety of reasons. So the candidates we decide to make</p> <p>14 offers to. And then candidates who decide to accept our</p> <p>15 offers.</p> <p>16 So we'll look at all of those because all</p> <p>17 of those are dates that have different implications for</p> <p>18 how bias can play in, right? And we'll kind of look at</p> <p>19 how are we doing at each level and how do the</p> <p>20 demographics of each group compare to the group before.</p> <p>21 And that's one way we can look at, not does bias play</p> <p>22 in, because, again, I can go back to we are all biased,</p> <p>23 so we all bring biases to our jobs; but are we</p> <p>24 successfully mitigating those biases throughout that</p> <p>25 process.</p>

<p style="text-align: right;">74</p> <p>1 Q. And just to be clear, going back to the  2 student evaluation scores, the course evaluation scores,  3 CIS, you weren't trying to equate wearing boots or an  4 article of clothing with pregnancy as being a potential  5 impact on scores, were you?  6 A. I was not trying to equate those, although the  7 comment about my boots was definitely sexual in nature.  8 So it was a gender-based comment, but it was not a  9 pregnancy-based comment.  10 Q. Okay. So an article of clothing, you broaden  11 to sex being a factor?  12 A. I didn't broaden it; the student did, who made  13 the comment, but yes.  14 Q. So that was just a one-time event?  15 A. It's the one that sticks in my mind. I  16 believe I've had other comments on my Course Instructor  17 Surveys, although, it would have been -- none of them  18 are super clear in my mind. So I think they have  19 tapered out, perhaps since I've gotten older. I've  20 received similar comments from students who I --  21 comments on Course Instructor Surveys that I would have  22 deemed inappropriate, but I don't remember concretely  23 any other examples.  24 Q. Okay. Let's go back to Dr. Nikolova. You  25 said the first time that you recalled her raising an</p>	<p style="text-align: right;">76</p> <p>1 math is math, so I think it's probably a thing that she  2 knew.  3 Q. Okay. Did she consult with you as at least an  4 informal mentor?  5 A. I think that, yes, it would be likely that we  6 would have discussed kind of how to navigate being  7 pregnant in the department.  8 Q. Okay. You just don't recall?  9 A. I don't recall specific discussions about it;  10 but this is something I've done, you know, for junior  11 female faculty that have joined.  12 Q. So other junior female faculty have been  13 pregnant during their probationary periods as well?  14 A. Yes.  15 Q. Okay. And I think some of those are reflected  16 in the Modified Instructional Duty data. Do you know  17 any that didn't take Modified Instructional Duty?  18 A. I don't have any idea. I would be surprised  19 to find out that any didn't avail themselves of it; but  20 that's everybody's choice, so.  21 Q. Do you recall Dr. Nikolova ever complaining  22 about how she was being treated because of her pregnancy  23 or having given birth, you know, having a newborn or  24 breast feeding or pumping or anything like that?  25 A. I don't recall any of those specifically with</p>
<p style="text-align: right;">75</p> <p>1 issue with you was this pregnancy on the CIS numbers for  2 you. What was the next time you recall Dr. Nikolova  3 raising gender with you?  4 A. I don't recall any concrete instances. I  5 know -- like I said, the next one that I definitely can  6 put a time on was the e-mail she sent to the entire  7 faculty after her tenure decision, where it was  8 explicitly mentioned or at least explicitly suggested, I  9 guess, is the way to put that. Those are the times I  10 recall.  11 Q. Is that the e-mail where she, in short, said  12 that: This is my experience, and I'm putting it out  13 there publicly to try to help?  14 A. Yes, that's that e-mail.  15 Q. All right. I think it starts off "elephant in  16 the room"?  17 A. That's right.  18 Q. Did Dr. Nikolova know that you were pregnant  19 during your probationary period?  20 MS. HILTON: Objection, form.  21 A. I don't know.  22 Q. (BY MR. NOTZON) You didn't have discussions  23 about that with her?  24 A. I don't think we ever discussed it explicitly,  25 but we were friend and she had met my daughter. And</p>	<p style="text-align: right;">77</p> <p>1 Eddie. I don't remember having those discussions with  2 Eddie. I've had those discussions with colleagues  3 before. I don't remember details about who I was having  4 those conversations with.  5 Q. If you did, you're just not recalling them  6 now?  7 A. That's right. Discussing pregnancy, standing  8 an hour and a half while grossly pregnant, pumping in  9 your office are conversations that, you know, female  10 faculty will have.  11 Q. Okay. And you don't remember Dr. Nikolova  12 specifically making any comment about Chair Tewfik  13 treating her differently or mistreating her or not  14 recognizing her condition of being pregnant or caring  15 for a newborn or anything like that? That doesn't ring  16 a bell for you?  17 A. I don't remember any of those conversations  18 about disparate treatment relating to pregnancy or  19 gender.  20 Q. Did you ever have conversations with  21 Chair Tewfik about Dr. Nikolova's issues related to her  22 complaints of gender or pregnancy?  23 A. I don't believe I have -- oh, sorry.  24 MS. HILTON: Objection, form.  25 A. I don't believe that I have.</p>

<p style="text-align: right;">78</p> <p>1 Q. (BY MR. NOTZON) Okay. Have you had any</p> <p>2 conversations with Dean Wood about Dr. Nikolova's</p> <p>3 complaints of gender bias or pregnancy bias?</p> <p>4 A. I don't believe that I have.</p> <p>5 Q. And that would be before or after your</p> <p>6 position as the Assistant Associate Dean?</p> <p>7 A. Yes, I don't recall having had any</p> <p>8 conversation with Dr. Wood about Dr. -- or</p> <p>9 Dr. Nikolova's pregnancy or potential gender bias.</p> <p>10 Q. After Dr. Nikolova sent that elephant-in-the-</p> <p>11 room e-mail, did you take any action to respond to that</p> <p>12 e-mail, to her?</p> <p>13 A. I don't think that I did.</p> <p>14 Q. Did you have any conversations with any other</p> <p>15 faculty members in ECE about that e-mail?</p> <p>16 A. Yes.</p> <p>17 Q. Were these e-mail or verbal conversations?</p> <p>18 A. Both.</p> <p>19 Q. Okay. And were you -- what was your -- I</p> <p>20 guess, if you could, just describe those conversations</p> <p>21 with us.</p> <p>22 A. So with the verbal conversations with other</p> <p>23 colleagues in the department, or what are you asking me</p> <p>24 to describe?</p> <p>25 Q. Sure. We'll start with verbal or start with</p>	<p style="text-align: right;">80</p> <p>1 you know, I reached out to them. I don't remember if I</p> <p>2 reached out to them by e-mail or in person; but we</p> <p>3 didn't have a substantive conversation over e-mail, I</p> <p>4 don't think. I think the substantive conversation was</p> <p>5 in person.</p> <p>6 We had a morning meeting in the cafe, in</p> <p>7 a public space, if that matters. We broached the topic</p> <p>8 of the e-mail that we had all received. I asked how</p> <p>9 they were feeling. I asked how they were doing.</p> <p>10 One of these colleagues is in a very</p> <p>11 similar position to Eddie, having come to UT from</p> <p>12 another serving -- I was going to say "serving some</p> <p>13 time" -- spending some years at another institution.</p> <p>14 And so just kind of making sure she felt comfortable and</p> <p>15 kind of understood what the processes were and what the</p> <p>16 implications were for her, I think that was the</p> <p>17 conversation.</p> <p>18 Q. Okay. And what was -- can you summarize your</p> <p>19 advice to her?</p> <p>20 A. I mean, every tenure case is an individual</p> <p>21 case. I suggested that she should -- she's not in my</p> <p>22 area. None of these three faculty are in my area,</p> <p>23 Eddie, Hao, or Jean Anne. So it's hard for me to</p> <p>24 provide kind of concrete: Is your research good? Is</p> <p>25 your research -- I don't know. But, you know, kind of</p>
<p style="text-align: right;">79</p> <p>1 e-mail, whichever you choose.</p> <p>2 A. Okay. Yeah. So I reached out to some of the</p> <p>3 junior faculty, specifically some of the female junior</p> <p>4 faculty, we had, you know, copied just to kind of catch</p> <p>5 up. I wanted to -- I was very concerned about them,</p> <p>6 very concerned about how they would react to that</p> <p>7 e-mail. They're in an extremely vulnerable place, and</p> <p>8 so we had coffee and kind of chatted about what they</p> <p>9 felt like.</p> <p>10 So those specific faculty that I talked</p> <p>11 to, the one conversation that sticks in my mind was with</p> <p>12 Hao Zhu and Jean Anne Incorvia. So we just discussed</p> <p>13 kind of how they felt about it, what their concerns</p> <p>14 were, and I just tried to provide mentoring for them,</p> <p>15 so.</p> <p>16 Q. Yeah. I mean, that's the whole point of that</p> <p>17 e-mail, right, is that assistant professors were in a</p> <p>18 very vulnerable position, Exhibit A, Dr. Nikolova?</p> <p>19 A. Yeah.</p> <p>20 MS. HILTON: Objection, form.</p> <p>21 Q. (BY MR. NOTZON) And so you were just making</p> <p>22 yourself available to them, saying, you know, "I'm here</p> <p>23 to answer any questions; and if you have any, need any</p> <p>24 support, let me know," kind of thing?</p> <p>25 A. That's what it was. I mean, we had a -- so,</p>	<p style="text-align: right;">81</p> <p>1 making sure you're getting good mentoring from within</p> <p>2 your area, doing the right level of service, you're</p> <p>3 teaching the right classes and showing a trajectory in</p> <p>4 those classes that's important.</p> <p>5 And then, the most important thing, to</p> <p>6 me, is getting advice from your mentor, from the</p> <p>7 Department Chair, from the Dean and understanding and</p> <p>8 heeding the advice. So making sure, you know, you</p> <p>9 understand what the expectations are for promotion at</p> <p>10 whatever timeline you intend to pursue it.</p> <p>11 Q. And that's really hard advice to give, right,</p> <p>12 because there is no known goalpost that you can point</p> <p>13 to?</p> <p>14 MS. HILTON: Objection, form.</p> <p>15 A. What goalpost are you speaking of? I'm sorry.</p> <p>16 Q. (BY MR. NOTZON) You know, if you're going to</p> <p>17 prepare your promotional package to get tenure, to put</p> <p>18 the package through the goalpost, as it were, to score;</p> <p>19 but you don't know where that goalpost is. You don't</p> <p>20 know where the bar is. You don't know what's high</p> <p>21 enough to clear. You don't know these things, right?</p> <p>22 MS. HILTON: Objection, form.</p> <p>23 A. So you know what's expected for tenure. It's</p> <p>24 not like it's a quantitative set of metrics and you can</p> <p>25 achieve them and then wash your hands and be done. I</p>

<p>82</p> <p>1 don't think that's true at any institution.</p> <p>2 I think that we have a good understanding</p> <p>3 of what the bar is for tenure; and we try to assign</p> <p>4 mentors for faculty members, I think, that have a good</p> <p>5 understanding of what that bar is and can help, in a</p> <p>6 very individual case, get somebody to understand what it</p> <p>7 means to meet that bar.</p> <p>8 I think that, you know, there's also the</p> <p>9 height of the goalpost, if you will, so how high the bar</p> <p>10 is, which is also different depending on the timeline.</p> <p>11 And so I think that, you know, we communicate to people</p> <p>12 that we hire when we hire them that, you know, we have</p> <p>13 one tenure clock for everybody and anything else is</p> <p>14 considered an early promotion and the bars are</p> <p>15 different, so.</p> <p>16 Q. Right. But if you go up early, like somebody</p> <p>17 else went up early, then, you should be able to rely on</p> <p>18 that bar?</p> <p>19 MS. HILTON: Objection, form.</p> <p>20 A. I'm sorry. What are you asking?</p> <p>21 Q. (BY MR. NOTZON) So if there are other</p> <p>22 examples of accelerated promotion and they cleared the</p> <p>23 bar that they cleared, is that an indication of where</p> <p>24 the bar is at the higher level?</p> <p>25 A. Yeah, I mean, that's exactly how we provide</p>	<p>84</p> <p>1 sent that to me, only.</p> <p>2 MR. NOTZON: Oh. I've got to pay</p> <p>3 attention.</p> <p>4 Okay. I think it's there now.</p> <p>5 THE WITNESS: It is. It's downloading.</p> <p>6 MS. HILTON: Robert, just while we're at</p> <p>7 a pause, what time are you thinking we would be breaking</p> <p>8 for lunch so people can start their orders?</p> <p>9 MR. NOTZON: So let's see.</p> <p>10 Professor Julien, are you okay right now? Can you go</p> <p>11 for another 30 minutes or so?</p> <p>12 THE WITNESS: Maybe more like 15, 20.</p> <p>13 MR. NOTZON: Okay. Yeah. Then if that's</p> <p>14 okay with you, then we can break at that time?</p> <p>15 THE WITNESS: It's okay with me.</p> <p>16 MR. NOTZON: Okay.</p> <p>17 MS. HILTON: Okay. Thanks.</p> <p>18 Q. (BY MR. NOTZON) Let me know when you're ready</p> <p>19 to take questions on it.</p> <p>20 A. I was just skimming it to refresh my memory,</p> <p>21 so.</p> <p>22 Q. Sure.</p> <p>23 A. Okay.</p> <p>24 Q. All right. And you say you co-wrote it.</p> <p>25 Could you explain to us what portion -- or what your</p>
<p>83</p> <p>1 the advice that we provide is based on kind of what our</p> <p>2 expectations are for that early promotion. Of course,</p> <p>3 every case is different because everybody's research</p> <p>4 area is slightly different. Everybody's teaching</p> <p>5 slightly different classes -- dramatically different</p> <p>6 classes, in some cases.</p> <p>7 So you can't -- again, you can't just use</p> <p>8 numbers from a previous case. If we could, we would</p> <p>9 just provide those numbers to everybody, right? We</p> <p>10 don't have them. So each case has to be individual.</p> <p>11 Q. And you played a role with Dr. Nikolova's</p> <p>12 assessment from the Budget Committee; is that right?</p> <p>13 You wrote the teaching assessment?</p> <p>14 A. I co-wrote the teaching assessment that was</p> <p>15 written by two of us.</p> <p>16 Q. Okay. Let me -- we're going to make an</p> <p>17 exhibit of that document, and it's going to be in your</p> <p>18 chat.</p> <p>19 A. Oh, okay.</p> <p>20 Q. So you're going to have to download it to get</p> <p>21 it as soon as I put it up.</p> <p>22 MR. NOTZON: Okay. And this will be</p> <p>23 Exhibit 12.</p> <p>24 (Exhibit 12 marked.)</p> <p>25 MR. SCHMIDT: Robert, I think you just</p>	<p>85</p> <p>1 contribution was to the project and the document</p> <p>2 production?</p> <p>3 A. I don't remember.</p> <p>4 Q. Okay. Do you remember if you wrote the first</p> <p>5 draft or not?</p> <p>6 A. I think I probably wrote the first draft. I</p> <p>7 can't be absolutely certain, but it's likely that I</p> <p>8 wrote the first draft.</p> <p>9 Q. Okay. And why do you think it's likely you</p> <p>10 did it instead of -- who was the other person?</p> <p>11 A. John Valvano.</p> <p>12 Q. Uh-huh.</p> <p>13 A. To be honest, I recognize myself in the</p> <p>14 language. So it looks like something I would have</p> <p>15 written the first draft of, the organization of, and</p> <p>16 whatnot.</p> <p>17 Q. Okay. And at the time, were you in support of</p> <p>18 Dr. Nikolova's promotion to tenure?</p> <p>19 A. I was on the fence when I wrote this.</p> <p>20 Q. Why is that?</p> <p>21 A. I knew that it was an early promotion. I knew</p> <p>22 that we had a higher bar for early promotion; and it</p> <p>23 wasn't clear to me from what we had reviewed so far in</p> <p>24 the Budget Council whether the portfolio met that bar,</p> <p>25 especially -- I mean, yeah.</p>

<p style="text-align: right;">86</p> <p>1 Q. Okay. And what about specifically related to 2 her teaching? 3 A. I thought her teaching -- and I think that's 4 what this review says -- was good. Her teaching is 5 good. It's definitely not an off-the-charts, early- 6 promotion teaching portfolio. 7 Q. Would you say she's at or above expectations? 8 A. Yeah. One clue, to me, in that from what we 9 wrote is at the end we say, "Her teaching record clearly 10 exceeds the expectation for an Assistant Professor in 11 the Department of Electrical and Computer Engineering." 12 We often will write something very specific there about 13 "exceeds expectations for promotion," which we didn't, 14 we chose not to write here, as an example. 15 Q. Okay. And in the summary, you say that, 16 "Dr. Nikolova takes her teaching obligations very 17 seriously and has strived to improve her teaching 18 effectiveness while still addressing the needs of the 19 ECE department and its students," correct? 20 A. That's what it says, yes. 21 Q. And I think you also comment you have personal 22 experience with Dr. Nikolova's teaching from the fact 23 that you guys taught the same course and she, I think, 24 used some of your curriculum and made changes and you've 25 used some of her ideas, as well, in your teaching.</p>	<p style="text-align: right;">88</p> <p>1 violated any teaching policies. 2 Q. If you were to have seen something in the 3 report that she prepared, her assessment, her teaching 4 report, would you have called it out in this report? 5 A. If I had seen something in her -- I'm just 6 trying to understand your question. If I had seen -- so 7 the input to this teaching statement was her -- well, 8 yeah, was her own teaching statement; and if I had seen 9 something that violated policy in her teaching 10 statement, would I have called it out? I can't 11 conjecture about what I was doing when I wrote this, so 12 I don't -- I don't know the answer to your question. 13 Q. So just in general, you don't see it as your 14 duty to the department and the college and the 15 university to identify some faculty members not 16 performing like they should, according to the rules and 17 regulations of the university? 18 MS. HILTON: Objection, form. 19 A. If I read a teaching statement by a faculty 20 member and I see that they are saying something that I 21 think is against rules at the university, I would -- 22 yes, I think I would bring it up with the Department 23 Chair or the person, to address. 24 Q. (BY MR. NOTZON) So when you say "the person," 25 that would be Dr. Nikolova in this instance, correct?</p>
<p style="text-align: right;">87</p> <p>1 Would that be accurate? 2 A. Yes. 3 Q. And I think you're actually an award-winning 4 teacher; is that right? 5 A. Yes, I've won awards for my teaching. 6 Q. And Dr. Nikolova has consulted with you about 7 your take on teaching. That would be a reasonable thing 8 to do, to go to an award-winning faculty associate, 9 correct? 10 MS. HILTON: Objection, form. 11 A. I wouldn't say that she's consulted with me on 12 teaching. I would say that we teach a class and there's 13 a team of us that teaches this class and we teach this 14 class collaboratively. I don't recall having 15 consultative sessions about how I approach it or how she 16 approaches it. 17 Q. (BY MR. NOTZON) Did you see anything in her 18 teaching -- well, in this report, do you see anything in 19 here that calls into question her performance as a 20 teacher as being a violation of policy? 21 A. Are you asking if I see anything in this 22 report that indicates she has violated policy with 23 respect to her teaching? 24 Q. Yes. 25 A. I don't see anything that says that she has</p>	<p style="text-align: right;">89</p> <p>1 A. Yes. 2 Q. And would you bring it up to her like, "Hey, 3 what did you mean here or are you actually doing this or 4 what's going on," that kind of thing? 5 A. If I saw a violation of university policy in 6 her teaching statement? Yes, I would bring it up with 7 her and probably the Department Chair if I saw something 8 that I interpreted as a violation of the policy. 9 Q. Right. What if you just saw something that 10 doesn't look right, that it would be a negative mark on 11 her teaching if she was actually doing this, in your 12 opinion? 13 A. Then I would not feel the same obligation to 14 bring it up. This is a summary. It doesn't capture all 15 of the positives or all of the negatives. 16 Q. Okay. But it does cover both? 17 A. The goal here is to cover both, you know, 18 positive aspects of teaching and negative aspects of 19 teaching for the purpose of determining whether to 20 promote somebody or not. 21 Q. Okay. 22 MR. NOTZON: Let me go ahead and put up 23 another exhibit, Exhibit 13. 24 (Exhibit 13 marked.) 25 Q. (BY MR. NOTZON) That's Dr. Nikolova's</p>



<p>90</p> <p>1 teaching statement.</p> <p>2 A. Okay. It's downloading.</p> <p>3 All right. Do you want me to read this</p> <p>4 again?</p> <p>5 Q. That's the statement you were saying that you</p> <p>6 relied on?</p> <p>7 A. If this is the statement that was included in</p> <p>8 her promotion dossier, then that's the statement we</p> <p>9 relied on. Obviously, I didn't commit it to memory at</p> <p>10 the time.</p> <p>11 Q. Okay. I'm going to put up Exhibit 2 from</p> <p>12 yesterday's deposition, as well, which is Dean Wood's</p> <p>13 evaluation of Dr. Nikolova.</p> <p>14 A. Okay.</p> <p>15 Q. And I'm putting up Dr. Nikolova's assessment</p> <p>16 because that's what yours was based on, but I'm really</p> <p>17 going to question you about Exhibit 2.</p> <p>18 A. Okay.</p> <p>19 Q. But it's there for you in case you need it.</p> <p>20 I guess, Professor Julien, since you've</p> <p>21 looked at Dr. Nikolova's assessment -- teaching</p> <p>22 statement --</p> <p>23 A. Uh-huh.</p> <p>24 Q. -- is there anything in her teaching statement</p> <p>25 that you would see as improper conduct or some violation</p>	<p>92</p> <p>1 (Laughter.)</p> <p>2 A. Well, I mean, comments from the Student</p> <p>3 Evaluations Section does talk about -- there's no way to</p> <p>4 sugarcoat it -- it's blaming the TAs for the students'</p> <p>5 evaluations of the course. I don't think it's improper.</p> <p>6 I think that it's misplacing the responsibility for the</p> <p>7 course, which I would say is a little bit different than</p> <p>8 blame, so.</p> <p>9 Q. Okay. That part of it, where you think she's</p> <p>10 not taking responsibility, would you say that she places</p> <p>11 the entire blame on the TAs for any of her --</p> <p>12 A. So the sentence I'm reading from the document</p> <p>13 is, "I believe that was the key factor for lowering my</p> <p>14 instructor and course evaluations." And what she's</p> <p>15 referring to there is the fact that the appointed TAs</p> <p>16 had even worse performance than expected, as couched by</p> <p>17 the -- or as implicated by the limited candidate pool.</p> <p>18 So I think that, in her own words, she's placing at</p> <p>19 least the most important factor on the TAs, the key</p> <p>20 factor.</p> <p>21 Q. And what about the assignment -- creation and</p> <p>22 grading of the assignments, is that a violation of your</p> <p>23 duty as a faculty member?</p> <p>24 A. I'm sorry. What do you mean, the creation?</p> <p>25 Q. That parenthetical in that sentence -- or in</p>
<p>91</p> <p>1 of university teaching protocol?</p> <p>2 A. I mean, I haven't read it in detail a second</p> <p>3 time. It's long.</p> <p>4 MS. HILTON: May I suggest we maybe take</p> <p>5 a break and Dr. Julien can read these documents and we</p> <p>6 can also break for lunch at the same time?</p> <p>7 MR. NOTZON: We can do that.</p> <p>8 THE WITNESS: Okay. That would be</p> <p>9 helpful for me.</p> <p>10 MR. NOTZON: Okay.</p> <p>11 THE REPORTER: We're going off the record</p> <p>12 at 12:20 p.m.</p> <p>13 (Off the record from 12:20 to 1:20 p.m.)</p> <p>14 THE REPORTER: We're back on the record</p> <p>15 at 1:20 p.m.</p> <p>16 Q (BY MR. NOTZON) All right. We're back from</p> <p>17 lunch. Professor Julien, did you get a chance to look</p> <p>18 at those documents, Dr. Nikolova's teaching statement</p> <p>19 and the Dean's evaluation?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. So starting with Dr. Nikolova's</p> <p>22 teaching statement, did you find anything in there that</p> <p>23 would be improper behavior of a faculty member at ECE?</p> <p>24 A. Well, having read both of them, I mean...</p> <p>25 Q. Don't cheat.</p>	<p>93</p> <p>1 that paragraph.</p> <p>2 A. Oh, the TAs' responsibilities are "creating</p> <p>3 and grading homework and programming assignments"?</p> <p>4 Q. Yes.</p> <p>5 A. That, to me, is a statement of an expectation</p> <p>6 of the TAs.</p> <p>7 Q. Okay. And there's nothing wrong with doing</p> <p>8 that?</p> <p>9 A. There's nothing wrong with asking the TAs to</p> <p>10 help create and grade homework and programming</p> <p>11 assignments.</p> <p>12 Q. Okay. And, in fact, wouldn't it be true that</p> <p>13 you do that in your own courses?</p> <p>14 A. I do, yes.</p> <p>15 Q. And I don't know if you recall or not, but you</p> <p>16 had told Dr. Nikolova that that's the way you do it</p> <p>17 before she taught the class?</p> <p>18 A. I don't recall if I told her that; but this is</p> <p>19 the way I have done it, is that I ask the TAs to suggest</p> <p>20 first drafts for the assignments and then finalize them</p> <p>21 before they're distributed.</p> <p>22 Q. Okay. And you do that for that particular</p> <p>23 course?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. And so if Dr. Nikolova testified that</p>



<p style="text-align: right;">94</p> <p>1 you told her that, and that's why she does it, you</p> <p>2 wouldn't be surprised if that had happened?</p> <p>3 MS. HILTON: Objection, form.</p> <p>4 A. We talked about the class before and my</p> <p>5 mechanisms for teaching it. We even, you know, have TAs</p> <p>6 that would be TAs for my class one semester and then her</p> <p>7 class the next semester and vice versa. So it would be</p> <p>8 easy to see how that knowledge would be shared across as</p> <p>9 instructors.</p> <p>10 Q. (BY MR. NOTZON) And now, moving on to</p> <p>11 Exhibit 2, Dean Wood's evaluation of Dr. Nikolova,</p> <p>12 viewing Dr. Nikolova's statement, your participation in</p> <p>13 the BC Teaching Assessment, would you say that</p> <p>14 Dean Wood's evaluation on teaching, which occurs on the</p> <p>15 second and third page of Exhibit 2 --</p> <p>16 A. Uh-huh.</p> <p>17 Q. -- that that is a fair summary of that</p> <p>18 information?</p> <p>19 A. Yes.</p> <p>20 Q. Even though it mentions nothing about any of</p> <p>21 the positive comments?</p> <p>22 A. Okay. I'm sorry. So you're asking: Is it a</p> <p>23 fair summary of what information, of the information in</p> <p>24 the teaching statement?</p> <p>25 Q. The question I asked was based upon your</p>	<p style="text-align: right;">96</p> <p>1 A. Looking at the numeric values of the course</p> <p>2 instructor ratings, there is a downward trend over the</p> <p>3 time that she taught this course. You're talking about</p> <p>4 the undergraduate course?</p> <p>5 Q. Right.</p> <p>6 A. Yes.</p> <p>7 Q. So you think ending at 3.9 is a downward</p> <p>8 trend, that showed a downward trend?</p> <p>9 A. So the 3.9 is really a semester -- two</p> <p>10 sections of the same class taught in the same semester.</p> <p>11 So you kind of have to look at that as -- I would look</p> <p>12 at it as an average, kind of 3.8, right? In any case, I</p> <p>13 think that overall, it's a somewhat downward trend. Is</p> <p>14 it a significant downward trend? I mean, I don't know.</p> <p>15 The numbers are lower.</p> <p>16 Q. Okay. And you don't see any indication of a</p> <p>17 justification or explanation for the context of those,</p> <p>18 do you?</p> <p>19 A. I don't see an explanation or justification</p> <p>20 for the context of that where?</p> <p>21 Q. In Dean Wood's statement.</p> <p>22 A. I see that Dean Wood is quoting and then</p> <p>23 extrapolating from Eddie's statement that she is laying</p> <p>24 the "key factor," so laying the blame on the TAs. I</p> <p>25 don't know if that's what you're asking or not.</p>
<p style="text-align: right;">95</p> <p>1 document and Dr. Nikolova's document.</p> <p>2 A. Is the teaching a fair summary?</p> <p>3 Q. Yes, in Dr. Wood's document.</p> <p>4 A. I mean, it's three paragraphs from a seven-</p> <p>5 page document, which was summarized into a three-page --</p> <p>6 I think it was a three-page document into three</p> <p>7 paragraphs -- four-page document into three paragraphs.</p> <p>8 So there's definitely information lost, right? This is</p> <p>9 not a -- so, I mean, I believe she has summarized; and I</p> <p>10 think she has focused on both positives and negatives in</p> <p>11 her review.</p> <p>12 Q. What positives?</p> <p>13 A. In the first paragraph Dean Wood talks about</p> <p>14 the positive -- especially the first several semesters,</p> <p>15 the positive course instructor ratings and her ability</p> <p>16 to engage students in the classroom. Those are, to me,</p> <p>17 positives.</p> <p>18 Q. You don't see that as a setup for a downward-</p> <p>19 trend comment?</p> <p>20 A. I see it as a statement of the facts of what</p> <p>21 her instructor ratings were for the first three</p> <p>22 semesters -- three -- yeah, first three semesters.</p> <p>23 Q. Do you agree that there was a downward trend</p> <p>24 based upon the teaching scores for those four classes in</p> <p>25 three semesters?</p>	<p style="text-align: right;">97</p> <p>1 Q. No. And you see how she said that, "Of</p> <p>2 particular note, Dr. Nikolova indicated that the</p> <p>3 teaching assistants are responsible for creating and</p> <p>4 grading" and that she says that that is a contradiction</p> <p>5 of the Cockrell School's philosophy of teaching?</p> <p>6 A. Yeah. I think that what's at play here is a</p> <p>7 little bit of the use of the word "responsible." So I</p> <p>8 would say that in my class, I am responsible for all</p> <p>9 creation and grading of assignments. So the TAs help do</p> <p>10 that by making usually the first draft of them and we</p> <p>11 get feedback and we edit over that, but I'm responsible</p> <p>12 for them. I mean, when assignments go out, I take</p> <p>13 responsibility for them.</p> <p>14 And I think that at play there is the use</p> <p>15 of -- in Eddie's statement, she mentions that it's the</p> <p>16 TAs' responsibilities, which just really goes to job</p> <p>17 duties. And so I think there may be a different use of</p> <p>18 the word of "responsible" and "responsibility" here, but</p> <p>19 I think that's what's at issue.</p> <p>20 Q. Is it a fair reading of Dr. Nikolova's</p> <p>21 statement that she is not taking responsibility for the</p> <p>22 course as a whole, based upon the language she uses and</p> <p>23 what you understand how Dr. Nikolova modeled her</p> <p>24 teaching on the course after your specific reference to</p> <p>25 having the TAs' duties include creating the assignments</p>

<p>98</p> <p>1 and grading them?</p> <p>2 MS. HILTON: Objection, form.</p> <p>3 A. So, yeah, I don't know what you mean by "a</p> <p>4 fair statement." What I will say is that I believe that</p> <p>5 in Dr. Nikolova's teaching statement, she is not taking</p> <p>6 responsibility for the negative comments from the</p> <p>7 students and is placing, instead, the responsibility for</p> <p>8 those negative comments on her TAs.</p> <p>9 Q. (BY MR. NOTZON) And you didn't include that</p> <p>10 in your assessment, correct?</p> <p>11 A. I didn't -- we didn't.</p> <p>12 Q. And why not?</p> <p>13 A. I don't know. I don't. I don't recall</p> <p>14 intentionally omitting it.</p> <p>15 Q. I mean, you take your responsibility for</p> <p>16 providing those assessments seriously, don't you?</p> <p>17 A. Yes.</p> <p>18 Q. And you -- as you've already testified, your</p> <p>19 duty that you complied with was to look at the positives</p> <p>20 and negatives that Dr. Nikolova presents in her teaching</p> <p>21 and present them in your assessment, correct?</p> <p>22 A. That's correct. Her teaching statement was an</p> <p>23 input into our evaluative process. My experience in the</p> <p>24 class was another input, naturally.</p> <p>25 Q. And did you also look at the CIS scores and</p>	<p>100</p> <p>1 the same pitfalls that we discussed earlier.</p> <p>2 Q. But it's a contextual factor that should be</p> <p>3 accounted for because it's a known factor, correct?</p> <p>4 MS. HILTON: Objection, form.</p> <p>5 A. I'm not sure what you're asking. Sorry.</p> <p>6 Q. (BY MR. NOTZON) It's not -- I mean, it is</p> <p>7 typical for teaching scores to be compared to other</p> <p>8 teaching scores, correct?</p> <p>9 A. That's correct. We especially compare within</p> <p>10 the same class. We compare longitudinally across the</p> <p>11 same instructor. We compare across the same category of</p> <p>12 staff, so assistant professors, associate professors,</p> <p>13 full professors, teaching faculty. We also compare</p> <p>14 along levels of class, whether it's required,</p> <p>15 undergraduate, mezzanine, or elective; and we'll compare</p> <p>16 size as an additional factor.</p> <p>17 Q. And over the years?</p> <p>18 A. And across years, yes.</p> <p>19 Q. And, in fact, Dr. Nikolova, if you compared</p> <p>20 her scores on this class over a period of years for</p> <p>21 everyone that has taught it, that she's in the top two</p> <p>22 or three people that have ever taught it of the over ten</p> <p>23 that have taught?</p> <p>24 MS. HILTON: Objection, form.</p> <p>25 A. I don't know. I'd have to review the course</p>
<p>99</p> <p>1 the comments?</p> <p>2 A. Yes, of course.</p> <p>3 Q. And you saw that the great majority were</p> <p>4 positive comments?</p> <p>5 A. Yes, they are.</p> <p>6 Q. You comment how she was innovative and how she</p> <p>7 stepped up to redesign curriculum and, actually, teach</p> <p>8 these courses; and she had large attendance in these</p> <p>9 courses, which is also a factor in her performance as</p> <p>10 well, correct?</p> <p>11 MS. HILTON: Objection to form.</p> <p>12 A. I don't think those are things that I said. I</p> <p>13 don't think that I mentioned that she had large</p> <p>14 attendance in the class. In fact, I don't know what the</p> <p>15 attendance was in the class. That's different from</p> <p>16 registration in the class, which these are large</p> <p>17 classes.</p> <p>18 Q. (BY MR. NOTZON) I apologize for using</p> <p>19 "attendance" instead of "registration." The number of</p> <p>20 students registered in the class is a factor, correct?</p> <p>21 A. A factor in what?</p> <p>22 Q. In the score.</p> <p>23 A. There are statistics that show that larger</p> <p>24 classes tend to have lower course instructor ratings.</p> <p>25 Applying that to a specific instance, again, are all of</p>	<p>101</p> <p>1 instructor scores for all of the instructors.</p> <p>2 Q. (BY MR. NOTZON) Do you recall Dr. Nikolova</p> <p>3 approaching you in 2018 to help her prepare her teaching</p> <p>4 assessment -- I mean, her teaching statement?</p> <p>5 A. I don't. I don't recall one way or the other.</p> <p>6 Q. Okay. If Dr. Nikolova testified that she did</p> <p>7 ask you to help her with her teaching statement and you</p> <p>8 didn't, did you make a conscious decision not to help</p> <p>9 her?</p> <p>10 A. Are you asking about her teaching statement</p> <p>11 for her promotion dossier?</p> <p>12 Q. Yes.</p> <p>13 A. Okay. I don't remember making a conscious</p> <p>14 decision not to help. If one of my colleagues asks me</p> <p>15 for help, I try to help whenever I can. If I don't</p> <p>16 help, it's usually an indication that I was too busy to</p> <p>17 do that.</p> <p>18 Q. You would let her know, though?</p> <p>19 A. I don't know.</p> <p>20 (Simultaneous speakers.)</p> <p>21 A. I'm sorry?</p> <p>22 Q. You were friends?</p> <p>23 A. We were friends, yes.</p> <p>24 Q. And as a friend, you would let your friend</p> <p>25 know if they ask you for something if you can or can't</p>

<p style="text-align: right;">102</p> <p>1 do it, wouldn't you?</p> <p>2 A. I can't say what circumstances would have been</p> <p>3 around some hypothetical situation.</p> <p>4 Q. Could you think of a reason why, if she asked</p> <p>5 you for help with her promotion, that if you were too</p> <p>6 busy, you wouldn't have told her so?</p> <p>7 A. If I was too busy to follow up and tell her</p> <p>8 so, that would have been a reason why. It would not</p> <p>9 have been out of malice or mal-intent. It would have</p> <p>10 been forgetfulness or an e-mail getting buried in an</p> <p>11 inbox.</p> <p>12 Q. Yet, you used the word "friend"?</p> <p>13 A. Yes.</p> <p>14 Q. Do you take your friendships seriously?</p> <p>15 A. I do.</p> <p>16 Q. Other than the birth of her child, would this</p> <p>17 be one of the larger experiences of her life, going up</p> <p>18 for tenure?</p> <p>19 MS. HILTON: Objection, form.</p> <p>20 A. I can't say what are large experiences in her</p> <p>21 life.</p> <p>22 Q. (BY MR. NOTZON) What about for you? Was it a</p> <p>23 very important part of your life?</p> <p>24 A. I'm sorry. What's a very important part of my</p> <p>25 life?</p>	<p style="text-align: right;">104</p> <p>1 Q. Why not if you also viewed her as a vulnerable</p> <p>2 member of the faculty and a friend?</p> <p>3 A. Yes, I viewed her as a friend. I was super</p> <p>4 sad, and I didn't know how to respond to her. I didn't</p> <p>5 know what to say, and so I didn't say anything.</p> <p>6 Q. You didn't say anything verbally. You didn't</p> <p>7 say anything in an e-mail, and you didn't even</p> <p>8 personally approach her?</p> <p>9 A. I don't recall doing any of those.</p> <p>10 Q. As a friend, is not knowing what to say a good</p> <p>11 enough excuse not to approach the person at all?</p> <p>12 MS. HILTON: Objection, form.</p> <p>13 A. In this case I believe that I didn't approach</p> <p>14 her.</p> <p>15 Q. (BY MR. NOTZON) Right. That's a good enough</p> <p>16 excuse, just because you didn't know what to say?</p> <p>17 MS. HILTON: Objection, form.</p> <p>18 A. I don't have an answer to that. I don't.</p> <p>19 Q. (BY MR. NOTZON) Other than, "I didn't know</p> <p>20 what to say," do you have any other reason why you</p> <p>21 didn't approach Dr. Nikolova at all?</p> <p>22 A. Not that I recall.</p> <p>23 Q. When was the last time you talked to her about</p> <p>24 her not getting tenure?</p> <p>25 A. She reached out to me, I believe, after the</p>
<p style="text-align: right;">103</p> <p>1 Q. Obtaining tenure.</p> <p>2 A. It's been impactful in my life. I honestly</p> <p>3 don't recall putting together my tenure and promotion</p> <p>4 package and the process of getting tenure as one of the</p> <p>5 pivotal moments of my life. It was not as important to</p> <p>6 me, for instance, as graduating with my doctoral degree</p> <p>7 or even my undergraduate degree.</p> <p>8 Q. Remember you said you talked to those two</p> <p>9 junior female faculty after the elephant-in-the-room</p> <p>10 e-mail came out because they were vulnerable?</p> <p>11 A. Yeah.</p> <p>12 Q. Wasn't Dr. Nikolova vulnerable, as well?</p> <p>13 MS. HILTON: Objection, form.</p> <p>14 A. I think the assistant professors are in a</p> <p>15 position of uncertainty. Having been there, I've felt</p> <p>16 that, which is why I serve as a mentor to my colleagues,</p> <p>17 Eddie, Hao, Jean Anne, included.</p> <p>18 Q. (BY MR. NOTZON) So that would be a "yes"?</p> <p>19 MS. HILTON: Objection, form.</p> <p>20 A. Yes.</p> <p>21 Q. (BY MR. NOTZON) And did you reach out to</p> <p>22 Dr. Nikolova after that e-mail?</p> <p>23 A. I did not reach out to her after the e-mail</p> <p>24 that she sent to the entire faculty that referenced the</p> <p>25 elephant in the room.</p>	<p style="text-align: right;">105</p> <p>1 Dean's decision but before the President's Committee had</p> <p>2 met, to ask for help on the rebuttal, I believe. This</p> <p>3 is what I recall. I think that's the last time we</p> <p>4 exchanged e-mails. I think she -- I kind of think she</p> <p>5 let me know when she had submitted it. I think I heard</p> <p>6 about it first from her before I heard about it from</p> <p>7 Ochman, when he told us the file was dated; but the</p> <p>8 timing could be mixed on that.</p> <p>9 Q. So just to clarify, the Dean recommended</p> <p>10 against tenure. She approached you about helping her</p> <p>11 with her rebuttal; is that right? Is that the next</p> <p>12 thing that happened?</p> <p>13 A. I think so. That's what I recall.</p> <p>14 Q. And she sent in her rebuttal. Does that mean</p> <p>15 you didn't help her with her rebuttal?</p> <p>16 MS. HILTON: Objection, form.</p> <p>17 A. I think that what happened -- and I'm -- so I</p> <p>18 believe -- what I recall is that she asked for my help</p> <p>19 on the rebuttal. I responded affirmatively and said,</p> <p>20 "Yes, I'll help you."</p> <p>21 And then I don't remember if it was the</p> <p>22 same e-mail or another e-mail I realized I didn't have</p> <p>23 access anymore to the documents I needed to help,</p> <p>24 including her teaching statement; and I asked for those.</p> <p>25 And that's when it stopped.</p>

<p>106</p> <p>1 So I don't remember if she sent them to 2 me. I think she sent them to me, and then I ran out of 3 time. I didn't have time to help. 4 And then I think she followed up after 5 the fact, to share her rebuttal with me or to share that 6 she sent the rebuttal, perhaps. I'm not sure. 7 Q. (BY MR. NOTZON) So the ball was in your court 8 on the rebuttal, and you dropped it? 9 A. I don't recall specifically. 10 Q. Okay. One way -- 11 A. I know we had a little bit of back and forth. 12 I recall that I responded to her original e-mail. I 13 didn't just ignore the original e-mail. 14 Q. Okay. On the rebuttal? 15 A. Yes. 16 Q. Okay. You responded in the affirmative and 17 then something happened -- there was a back and forth 18 and then something happened where it fell through and 19 you don't remember if it was you that dropped the ball 20 or her? 21 A. That's right. 22 Q. But you do believe that that interchange 23 occurred via e-mail? 24 A. Yes. 25 Q. Okay. And then the next thing is she sent you</p>	<p>108</p> <p>1 it a good rebuttal? Did it address the points that it 2 needed to address? And all of these are, of course, in 3 your perception and opinion. 4 A. Yeah, do we have a copy? I mean, I need to 5 review the rebuttal again before I can give you my 6 perception on it. I don't have it in front of me. 7 Q. Okay. I'm asking for your memory of your 8 reaction to the rebuttal then right now -- well, right 9 now, I'm asking if you recall what your reaction to the 10 rebuttal was after you read it for the first time. 11 A. It's going to be -- I mean, I don't know what 12 it was. It was tied up with that elephant-in-the-room 13 e-mail, so there was a lot of information and a lot of 14 feelings that came with that e-mail. So I can't recall 15 specifically what my reactions were to the rebuttal, to 16 the Dean's statement, to her e-mail to the entire 17 faculty. I can't tease those apart one from the other. 18 Q. Okay. But just to be clear, the rebuttal was 19 separate from the elephant in the room, right? 20 A. Oh, maybe my recollection is wrong. I thought 21 it was attached to the elephant-in-the-room e-mail. 22 Q. Okay. So your memory is you received the 23 rebuttal at the same time as the elephant-in-the-room 24 e-mail? 25 A. That's what I recall. It's -- I don't know.</p>
<p>107</p> <p>1 a copy of her rebuttal, and did you have any interchange 2 about that? 3 A. I don't recall. 4 Q. Okay. 5 A. I don't recall if we talked about it in 6 person, perhaps, or on the phone or via e-mail. I don't 7 recall. 8 Q. But you're clear that you did not assist on 9 the rebuttal? 10 A. I don't think that I did. 11 Q. Did you read the rebuttal? 12 A. Yes. 13 Q. Did you provide her any comments about the 14 rebuttal? 15 A. Are you asking whether I provided comments 16 before she sent it to the whole faculty or before she 17 shared it to her file? 18 Q. I'll restrict my question to: After you 19 received a copy of the rebuttal, did you provide her any 20 feedback on the rebuttal? 21 A. I don't think that I did. If I did, it was 22 almost certainly over the phone or something. I don't 23 know. 24 Q. Okay. And what was your reaction to the 25 rebuttal, or how would you describe the rebuttal? Was</p>	<p>109</p> <p>1 Q. I'm not saying that didn't happen. I just 2 want to ask you what you remember because I don't know. 3 Okay. And so that's the last time you 4 guys have had -- well, the e-mail asking for your help 5 on the rebuttal and her sending you the elephant-in-the- 6 room e-mail is the last time that you guys have 7 interacted about her denial of promotion? 8 A. I think so. 9 Q. Okay. Have you had any other communications? 10 A. Yes. 11 Q. Okay. About work-related issues or personal 12 issues? 13 A. I think exclusively what you would categorize 14 as work-related issues. Some of them are slightly more 15 social, but they're still kind of professional. 16 Q. Okay. Do you still consider yourself a friend 17 to Dr. Nikolova? 18 A. That's a tough question to answer. I don't 19 know. We haven't interacted outside of a very formal 20 academic setting for quite some time. 21 Q. Do you feel that that's something that 22 Dr. Nikolova has done or that you have made a decision 23 on? 24 A. I have not made a decision to exclude her as a 25 friend, so.</p>

<p style="text-align: right;">110</p> <p>1 Q. Okay. Have you taken any steps to interact 2 with her on a personal friend level? 3 A. Sure. We have an annual -- my family has an 4 annual Halloween party, and Eddie used to attend with 5 her family some number of times. I think I always 6 invited her, even -- obviously, we didn't have it this 7 past year because of, you know, COVID; but I think other 8 than that, she's always been invited. I think she 9 stopped coming. That's my recollection. 10 Q. Is it one of those open invitations, or do you 11 actually send out invitations? 12 A. Oh, I send out invitations. I don't invite 13 all my colleagues. I invite choice colleagues. 14 Q. So you are sure that you had sent an 15 invitation to her in 2019, because there's only been one 16 Halloween since she was denied? 17 A. I'm not certain. I'd have to go back and 18 look. I'm not certain if I invited her, and I'm not 19 certain if she attended if I did invite her. 20 Q. And other than that, any other attempts to 21 personally interact? 22 A. Yeah. We have a relatively -- I won't say 23 regular -- irregular meeting of women in the department, 24 and a lot of kind of other social interactions come out 25 of that. We might catch up over coffee and then decide</p>	<p style="text-align: right;">112</p> <p>1 Q. So to what do you attribute the lack of 2 communication between you to? 3 A. So I think that I stopped running into her on 4 campus. So before these things happened, she was a more 5 regular presence on campus, and there are accidental 6 bumping into people or stopping by somebody's office 7 that happens when people are on campus. And I think 8 that since the time of that e-mail, she's been -- we've 9 all been less present for the last year; but even before 10 that, I think she was less present on campus. 11 And then since March 2020, I mean, I feel 12 disconnected from all of my colleagues, who I also count 13 as friends, so. 14 Q. Yeah. We have a good, what, 13, 14 months, at 15 least, between the elephant and the room and March of 16 2020? 17 A. Yeah. 18 Q. I guess let me ask it this way: Is it your 19 understanding that the lack of personal interaction 20 between you and Dr. Nikolova is based on Dr. Nikolova's 21 choice alone or both yours and her choice? 22 A. I would say it's shared. 23 Q. And for your share, what is the basis of your 24 reduction in personal interaction with Dr. Nikolova? 25 A. What do you mean by "basis"?</p>
<p style="text-align: right;">111</p> <p>1 to have lunch or dinner or something else, in addition. 2 Eddie's routinely been invited to those, 3 although, I think she's decided not to attend them 4 recently. I don't know why. 5 I am -- I have been the person initiating 6 them. It switches off between me and most of the time 7 the Department Chair. So those are attempts. 8 I think there was one response from Eddie 9 to one of the recent ones, one of the virtual COVID 10 ones, initially saying she would attend, but then 11 withdrawing. I don't know why. 12 Q. Okay. So I'm going to ask a slightly 13 different question, which is: Have you made any 14 attempts on a one-to-one basis to reconnect or to 15 connect with Dr. Nikolova? 16 A. I don't recall any. 17 Q. Okay. 18 A. There's a few times where we've had coffee, 19 but they may have all been before the elephant-in-the- 20 room e-mail, which is our point of reference. 21 Q. Okay. Are you saying that that is -- was a 22 watershed event in your relationship with her? 23 A. I didn't say that. 24 Q. I'm asking. 25 A. Yeah.</p>	<p style="text-align: right;">113</p> <p>1 Q. Why. 2 A. What's causing it? I'm busy. It's the old 3 adage out of sight, out of mind. Like I said, I tend to 4 interact with people I bump into; and not bumping into 5 somebody means I have to take another extra effort to 6 reach out to them. And I didn't, so. 7 Q. And is there a reason you didn't make extra 8 effort, or was that just the way it happened? 9 A. That's the way it happens. I've got two 10 little kids and other stuff going on, so. 11 Q. So you don't attribute the falloff in your 12 personal relationship to her denial of tenure or her 13 reaction to that denial of tenure, which includes the 14 complaints of gender and pregnancy discrimination? 15 A. I do not attribute it to that. 16 Q. Do you recall when you read her rebuttal 17 having any feeling of: This is untrue. This is 18 factually inaccurate. This is not good? 19 A. Without looking at her rebuttal again, I can't 20 answer that question. 21 Q. Okay. Let me find it for you. 22 MR. NOTZON: Dang it. I'm blaming Bob 23 for this. 24 Okay. Now it should be up. 25 THE WITNESS: Okay. There it is.</p>

<p>114</p> <p>1 MR. NOTZON: Exhibit 7. 2 (Witness silently reading document.) 3 MR. NOTZON: And I'm okay if you want to 4 go off the record and have a review of this just so 5 people can take a break, as well. 6 MS. HILTON: That sounds good. 7 THE WITNESS: Sorry. I'm a slow reader, 8 so. 9 MR. NOTZON: I am, too. I like to read 10 the words. 11 All right. So just come back when you're 12 ready. 13 THE WITNESS: Okay. 14 THE REPORTER: We're going off the record 15 at 1:56 p.m. 16 (Off the record from 1:56 to 2:11 p.m.) 17 THE REPORTER: We're back on the record 18 at 2:11 p.m. 19 Q (BY MR. NOTZON) Okay. You were able the look 20 at the rebuttal? 21 A. I was. 22 Q. Okay. 23 MR. NOTZON: And what was the question I 24 had asked, Debbie? 25 (The requested material was read as</p>	<p>116</p> <p>1 were attributed to one in particular. Whether it was 2 the e-mail or the rebuttal itself, I can't say. 3 Q. Okay. And not to quibble with you too much, 4 but you said that she had asked you for help in writing 5 the rebuttal. So the Dean's statement would have been 6 required for writing that rebuttal. So she probably 7 would have sent you that with the request to write the 8 rebuttal separate? 9 A. Yeah. 10 Q. So I hear you saying that it's all jumbled up, 11 but you consciously know that they probably weren't all 12 together? 13 A. Yeah, I mean, that's probably a fair 14 characterization. In my head, like trying to tease out 15 a specific memory of, "I read this document, and I 16 responded in this way," you know, years ago is hard for 17 me to do in that kind of memory, right? So I don't -- I 18 can't answer the question because I can't give you a 19 clear picture of what my feelings were at that time. 20 Q. Well, can you give me your memory of what your 21 feelings were, whether it's to the whole jumbled group 22 instead of one particular document? 23 A. Yeah, I can give you a sense that -- one of my 24 recollections is that it came across to me as defensive, 25 which, I mean, it was a defense, so in the sense that</p>
<p>115</p> <p>1 follows: 2 "QUESTION: Do you recall when you read 3 her rebuttal having any feeling of: This is untrue. 4 This is factually inaccurate. This is not good?" 5 A. All right. So focusing on things that are, 6 you know, factually questionable in the statement, I 7 think that -- I kind of took some notes as I read 8 through. 9 Q. (BY MR. NOTZON) And let me clarify: Are you 10 answering today, or are you answering from what you 11 recall back in 2019? 12 A. I guess I'm answering for today because I've 13 read it just now, right? And I can tell you what I know 14 to be factually inaccurate now. I don't know what I was 15 thinking back then. 16 Q. Let me ask you, first: Do you recall at all 17 what your reaction was in first reading it back when you 18 first got it? 19 A. I think that -- and I don't know a clear way 20 to explain this; but, in my head, my memory, I received 21 three things all at once, right? So I received the 22 e-mail -- at least, this is how I recall it -- the 23 e-mail, this rebuttal, and the Dean's statement all at 24 the same time. And I can relate my feeling in response 25 to that, but I can't say necessarily that those feelings</p>	<p>117</p> <p>1 defenses are defensive. But I feel like it read, to me, 2 as overly-defensive; and that's style, perhaps. 3 Q. And you would have recommended her not do that 4 had you participated, to alter that? 5 A. I can't say what I would have done in that 6 moment. I mean, everybody's personality is different. 7 The situation calls for different recommendations for 8 different people; and I would never try to make clones 9 of myself. So I can't say what I would have recommended 10 in that space. 11 Q. Okay. Would you have made a recommendation at 12 all? 13 A. Like I said previously, if a colleague asks me 14 for help, I would try to help that colleague as best I 15 could. Not doing so in this case was surely a lack of 16 time, just being too busy with other things. 17 Q. Do you recall that -- so there's the elephant- 18 in-the-room e-mail; but wasn't there also another e-mail 19 asking about potentially creating a petition or some 20 sort of affirmative action from the Department to the 21 President's office, essentially defending Dr. Nikolova's 22 candidacy for tenure and the Budget Council's vote in 23 support of that? 24 MS. HILTON: Objection, form. 25 A. I don't recall specifics related to that, but</p>



<p>118</p> <p>1 I do recall mention of a petition. I don't remember if 2 it came from Eddie herself or from other people in the 3 department, and I don't know if it was in the form of 4 e-mail or if this was in-person conversations. I do 5 have a recollection that such a conversation was 6 broached in some context, but I can't recall what 7 context.</p> <p>8 Q. Do you think of it independently from the 9 elephant-in-the-room e-mail, as a separate action?</p> <p>10 A. I would associate it with following the 11 elephant-in-the-room e-mail.</p> <p>12 Q. Okay. And do you recall meeting or advising 13 Eddie not to do that?</p> <p>14 A. I don't recall.</p> <p>15 Q. Okay. Was it your opinion at the time that 16 you would not participate in that action?</p> <p>17 A. I can't recall.</p> <p>18 Q. Do you recall taking any -- having any 19 conversations with anybody about the petition?</p> <p>20 A. I don't remember. I do recall the petition.</p> <p>21 I don't remember the details of who I talked to, whether 22 it was Eddie herself or whether it was another colleague 23 who had also talked to Eddie. I don't recall.</p> <p>24 Q. Okay. And you don't recall whether you had a 25 position of support for that or opposition or neutral?</p>	<p>120</p> <p>1 that it's not; it's just not related.</p> <p>2 There's an implication that we hadn't 3 been providing practice exams in Algorithms until Eddie 4 decided to do that, but we've been doing that since the 5 beginning of the course.</p> <p>6 And then the last thing that I thought 7 was kind of factually questionable were some of the 8 comments about her start date in relationship to 9 Dr. Tiwari's -- Mohit's start date. She said that Mohit 10 started in the Fall of 2013, and it was -- I'm trying to 11 find that again -- and she didn't start until January of 12 2014. And so the goal there is to equate their time as 13 equivalent, but that's not correct because she started a 14 semester later. So I think that's just a little 15 misleading.</p> <p>16 Q. Page 10, the third paragraph.</p> <p>17 A. Yeah, sorry. Page 10.</p> <p>18 Q. I didn't know if you needed to see it.</p> <p>19 A. Yeah. Thank you.</p> <p>20 Q. Okay. She's not saying -- I mean, she's 21 acknowledging they started at different times, right?</p> <p>22 A. Yeah, perhaps. Maybe I misread that.</p> <p>23 Q. And, you know, she's relying on the two and a 24 half years she taught at A&amp;M, correct --</p> <p>25 A. Yes, that's correct.</p>
<p>119</p> <p>1 A. I don't recall.</p> <p>2 Q. You would recall if that petition -- well, you 3 already said that the petition was a follow-on from the 4 elephant-in-the-room e-mail?</p> <p>5 A. That's the way I remember it, yeah.</p> <p>6 Q. All right. So back to the rebuttal. You were 7 about to tell me your current understanding of what's 8 factually inaccurate.</p> <p>9 A. Yeah. So there's a statement in here that 10 says that this class, the EE 360C, is one of the, quote, 11 "hardest classes to get high teaching evaluations for." 12 I don't think that statement is backed up by fact. I 13 think that statement might be opinion, but it's 14 presented as fact.</p> <p>15 Q. Okay.</p> <p>16 A. So that's one place I would call into question 17 the fact.</p> <p>18 There's another place in this rebuttal 19 where she mentions that high demand for classes 20 indicates quality of teaching; and, in my own 21 experience, that is not the case, not necessarily a 22 causal relationship. So I don't think you can draw a 23 connection between the fact that the enrollment numbers 24 in her graduate class increased as an indication that 25 her teaching quality is high. It's not an indication</p>	<p>121</p> <p>1 Q. -- as part of her justification for being 2 ready, as it were?</p> <p>3 A. Time and rank, yeah.</p> <p>4 Q. I think it's been referred to -- I've seen it 5 frequently as "technically early"?</p> <p>6 A. I don't know if that's a policy term at the 7 university.</p> <p>8 Q. No.</p> <p>9 A. I think early is early, from the University's 10 perspective.</p> <p>11 Q. Well, would you agree that -- so if you're -- 12 if you've got six years of teaching experience from two 13 different universities, that's early as to UT's 14 probationary clock, based upon UT's policy, correct?</p> <p>15 A. If you don't have six years of experience at 16 the time of promotion at UT, UT's policy considers that 17 to be an early promotion.</p> <p>18 Q. Right. I think I just said that.</p> <p>19 A. Okay. Well, there was something about A&amp;M in 20 there.</p> <p>21 Q. Well, my statement was if you have six years 22 of time in at a combination of universities, that would 23 be considered early at UT because you wouldn't have six 24 years at UT?</p> <p>25 A. That's correct.</p>



<p style="text-align: right;">122</p> <p>1 Q. And that would be early for UT.</p> <p>2 Now, if you had less than six years at UT</p> <p>3 and less than six years at UT and somewhere else, that</p> <p>4 would be early, early?</p> <p>5 MS. HILTON: Objection to form.</p> <p>6 A. The UT policy sees those as the same. Early</p> <p>7 is early. There's no difference between what you did</p> <p>8 before you joined UT. Your probationary period starts</p> <p>9 at the beginning of the academic year following when you</p> <p>10 joined UT.</p> <p>11 Q (BY MR. NOTZON) Yeah, that's looking at the</p> <p>12 policy; but I'm talking about in practical terms,</p> <p>13 because you know, since you've been there so many years,</p> <p>14 that people have gone up for tenure based upon their</p> <p>15 prior service, teaching at other universities, some of</p> <p>16 which have gone up with a total of six or more years of</p> <p>17 combined service. And that was fine, and they went up</p> <p>18 and they got tenure, however they did. Would you agree</p> <p>19 with that?</p> <p>20 MS. HILTON: Objection, form.</p> <p>21 A. I agree that people have been tenured at UT</p> <p>22 and that some people have been tenured early.</p> <p>23 Q (BY MR. NOTZON) Where they met the six years</p> <p>24 of time, but they had to rely on prior service somewhere</p> <p>25 else?</p>	<p style="text-align: right;">124</p> <p>1 Q. With combined years of teaching of six or more</p> <p>2 years?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. Next question: Are you aware of any</p> <p>5 professor -- any faculty member having gone up for -- if</p> <p>6 you want to say "early tenure," I don't care -- early</p> <p>7 tenure with less than six years of time at UT and/or</p> <p>8 another university that didn't even have six years of</p> <p>9 combined teaching?</p> <p>10 MS. HILTON: Objection, form.</p> <p>11 A. I am aware of faculty that we have early</p> <p>12 promoted who did not have six years in the probationary</p> <p>13 period at UT or anywhere.</p> <p>14 Q (BY MR. NOTZON) Okay. And are those persons,</p> <p>15 that second category, are they considered to be more</p> <p>16 early or held to a higher bar than just the people that</p> <p>17 have achieved the six years or more combined between the</p> <p>18 two universities?</p> <p>19 MS. HILTON: Objection, form.</p> <p>20 A. I do not believe so.</p> <p>21 Q (BY MR. NOTZON) Okay. So they would have the</p> <p>22 same high bar to meet, regardless of where they are in</p> <p>23 the total years of teaching. It all only has to do with</p> <p>24 the UT years of teaching as to how high the bar is?</p> <p>25 MS. HILTON: Objection, form.</p>
<p style="text-align: right;">123</p> <p>1 A. My understanding is those cases were still</p> <p>2 considered early promotion. When you go up --</p> <p>3 Q. I'm really -- we're not arguing about what the</p> <p>4 policy says. I'm just asking you a simple question; and</p> <p>5 I just want to know if you're aware of it or not, not an</p> <p>6 explanation of how the policy views it. Okay?</p> <p>7 A. Okay.</p> <p>8 Q. Are you aware that someone has gone up for</p> <p>9 tenure at UT and received tenure when they had six years</p> <p>10 of probationary experience at a combination of UT and</p> <p>11 somewhere else?</p> <p>12 MS. HILTON: Objection, form.</p> <p>13 A. I don't agree with that statement exactly as</p> <p>14 it's presented. The probationary --</p> <p>15 Q (BY MR. NOTZON) The question is whether</p> <p>16 you're aware or not of a faculty member that went up for</p> <p>17 and received tenure when their teaching record was six</p> <p>18 years as an Assistant Professor with a combination of</p> <p>19 years between UT and another institution, yes or no?</p> <p>20 A. I'm aware of a person who has gone up for</p> <p>21 promotion -- early promotion at UT in our department</p> <p>22 after having spent some time at another institution.</p> <p>23 Q. With a combined --</p> <p>24 A. And succeeded in achieving early promotion</p> <p>25 when they had been --</p>	<p style="text-align: right;">125</p> <p>1 A. So I'm not sure what you're asking. The early</p> <p>2 promotion bar is higher than the regular promotion bar.</p> <p>3 Everybody's probationary period is measured from the</p> <p>4 beginning of the academic year following when they</p> <p>5 started at UT. It's measured from there. If they go up</p> <p>6 for tenure before that, then, it's considered early</p> <p>7 promotion; and the bar is considered to be higher.</p> <p>8 Q. (BY MR. NOTZON) Okay. What I'm trying to get</p> <p>9 at is: Is there a higher bar and then a higher, higher</p> <p>10 bar and then a higher, higher, higher bar?</p> <p>11 A. Not that I know of.</p> <p>12 Q. Okay. There's just the on-time bar and the</p> <p>13 early, higher bar?</p> <p>14 A. As far as I know, yeah.</p> <p>15 Q. Okay.</p> <p>16 A. I mean, I guess if we're talking about a</p> <p>17 single year of early. If we're talking about multiple</p> <p>18 years early, fewer than five years in a probationary</p> <p>19 status at UT, there might be a different consideration.</p> <p>20 Q. Yeah, that's what I was -- that was the second</p> <p>21 category of people that went up early that didn't even</p> <p>22 meet the six. So they would be more than just early at</p> <p>23 UT; they'd be early at UT and without six years?</p> <p>24 A. Yeah, I'm trying not to muddle with is there</p> <p>25 time at another institution. What I'm saying is: If</p>

<p style="text-align: right;">126</p> <p>1 your probationary period at UT is at UT, six years,  2 you're on time. If your probationary period at UT is  3 less than six years, you're early. If it's less than  4 five years, you might considered early, early; but I'm  5 only talking about the probationary period at UT. I'm  6 not talking about time at another institution, which the  7 questions have been kind of mixing time at another  8 institution and time at UT.  9 Q. You're not aware that time at other  10 institutions has been used as a basis for going up  11 early?  12 A. When a faculty member goes up for promotion or  13 tenure, their entire career is considered. So if  14 someone spent time at another institution, the  15 publications, the service activities, everything that  16 they did at that other institution is used as part of  17 the evaluation. The same is true for someone who's done  18 a post doc. The same is true for someone who spent time  19 in industry. It doesn't contribute to their  20 probationary period, but it is part of their corpus of  21 work.  22 Q. I understand that. But I'm trying to get at  23 the part of the policy that says that if it's an early  24 or accelerated promotion, that the reason for an early  25 or accelerated nature must be explained. Do you</p>	<p style="text-align: right;">128</p> <p>1 Q. Okay. What about two or one?  2 A. I have no idea. I don't -- I don't recall any  3 of those, but I'd have to go back and look to give you a  4 definitive answer.  5 Q. I would assume that those would be remarkable?  6 A. Yeah, I would assume so, too.  7 Q. And as they're remarkable, that's why I'm  8 asking if you would know that because if it would  9 happen, I would think that the scuttlebutt around the  10 university would have been a lot.  11 A. Yes, but I -- it's a big university. So if it  12 didn't happen in my department, the chances I'd know  13 about it are really slim because I haven't served on the  14 College of Promotion and Tenure; and I don't see  15 anything at the university level.  16 Q. Okay. How about any four years?  17 A. There may be colleagues in our department that  18 have been done in four years. Again, I'd have to look  19 back at all the different cases and refresh my memory on  20 them.  21 Q. Okay. And so, by the same token, you're not  22 really sure if four years is considered a higher bar  23 than the five year?  24 MS. HILTON: Objection, form.  25 A. I don't know what the University policy says</p>
<p style="text-align: right;">127</p> <p>1 understand that as part of the policy?  2 A. I don't -- I don't know.  3 Q. Okay.  4 A. I don't know the ins and outs of the policy.  5 Q. Okay. That's where my question was going, and  6 it was going towards there on the explanation that's  7 been provided for several files that I've read -- and I  8 don't know if you're aware of this or not; that's why  9 I'm asking -- is whether or not just having met the  10 total six years by a combining of the prior service and  11 UT was a basis that was given to explain the early  12 promotion. If you're not aware of that, then --  13 A. I can't -- I can't comment on that. I don't  14 know.  15 Q. Okay. All right. So the follow-up, now that  16 you've said the early, early part -- or understood what  17 I was talking about, maybe -- so what if you're at three  18 years? So that's three years early at UT. Do you know  19 of anybody that's gone up at three years?  20 A. I -- I don't know. I'd have to go back and  21 look at my colleagues and see when they went up. I just  22 don't know.  23 Q. Okay. As you're sitting here today, you don't  24 know?  25 A. Not off the top of my head.</p>	<p style="text-align: right;">129</p> <p>1 about it. I don't know.  2 Q. (BY MR. NOTZON) All right. Let me -- oh, you  3 were providing me factually inaccurate observations  4 about the rebuttal, right?  5 A. Yeah, I was done.  6 Q. Okay. Was there any other reaction you had to  7 the rebuttal other than you did say it was defensive?  8 A. Yeah.  9 Q. Is there anything else that you would  10 criticize or comment on?  11 A. Yeah. I mean, I would say one other feeling  12 that I get from it is a pretty personal feeling and that  13 related to the Algorithms class.  14 Q. Personal to you?  15 A. Personal to me in the sense that there's kind  16 of -- well, I don't know if it's personal to me -- but  17 in the sense that, "Dr. Julien has done a good job  18 teaching this class. I do exactly the same things she  19 does in the class. So it doesn't make any sense that  20 I'm not considered as doing a good job."  21 And I know from my own experience, having  22 taken on a course from another professor and using her  23 materials directly, that that is not surprising at all;  24 and you have to adapt a class. And so I took a little  25 bit of an affront to that. I mean, I guess that's just</p>

<p style="text-align: right;">130</p> <p>1 a response I had to the read today; but...</p> <p>2 Q. Although, you were given a chance to help?</p> <p>3 A. Given a chance to help with what?</p> <p>4 Q. The rebuttal.</p> <p>5 A. Yes, she asked for my assistance; but, I mean,</p> <p>6 I wasn't an author of this rebuttal.</p> <p>7 Q. Right. But what I'm saying is: You're taken</p> <p>8 aback by it, but she also wasn't trying to hide it or</p> <p>9 sneak it by you or, obviously, wasn't trying to offend</p> <p>10 you because she invited you to help?</p> <p>11 A. That's correct.</p> <p>12 Q. Okay. I just wanted to make sure --</p> <p>13 A. I mean, I wasn't -- yeah. And, again, this is</p> <p>14 my response to it -- just to be clear, this is my</p> <p>15 response to it today. I don't know what my response to</p> <p>16 it was -- would have been previously and what I might</p> <p>17 have said. I don't know.</p> <p>18 Q. So did you ever meet with any other faculty or</p> <p>19 discuss the petition with any members of administration?</p> <p>20 MS. HILTON: Objection, form.</p> <p>21 A. No.</p> <p>22 Q. (BY MR. NOTZON) Did you ever try to talk</p> <p>23 anybody out of the petition or express that that was not</p> <p>24 the way to go?</p> <p>25 A. I don't recall that I did. I don't recall</p>	<p style="text-align: right;">132</p> <p>1 Q. I guess the move to approve her going up for</p> <p>2 tenure.</p> <p>3 A. Yeah, we have a two-step process. We vote,</p> <p>4 usually, at the end of, like, a spring semester to put</p> <p>5 people up for -- to encourage people or to approve</p> <p>6 putting together a package; and we voted affirmatively</p> <p>7 for that for Miryung. And then we vote -- after the</p> <p>8 package has been put together and we have received</p> <p>9 letters, then we actually vote on the case.</p> <p>10 Q. And that was an early promotion, correct?</p> <p>11 A. That's correct, she was one year early.</p> <p>12 Q. And the vote to -- the first step of the two-</p> <p>13 step, was a good majority vote?</p> <p>14 MS. HILTON: Objection, form.</p> <p>15 A. It passed. I don't remember the score, if you</p> <p>16 will, the actual vote count.</p> <p>17 Q. (BY MR. NOTZON) You don't remember if it was</p> <p>18 tight or extreme?</p> <p>19 A. I don't remember it, huh-uh.</p> <p>20 Q. Okay. And then do you remember what the vote</p> <p>21 was on the second step?</p> <p>22 A. I do not remember the details of the vote on</p> <p>23 the second step. I know that her case didn't move out</p> <p>24 of the department, but I don't remember what the numeric</p> <p>25 values of the votes were.</p>
<p style="text-align: right;">131</p> <p>1 conversations about -- whether I had them with other</p> <p>2 faculty or with Eddie, I don't recall the specifics</p> <p>3 behind the conversations.</p> <p>4 Q. Do you recall how you felt about the petition</p> <p>5 or the idea of a petition because I don't know if I ever</p> <p>6 saw a petition?</p> <p>7 MS. HILTON: Objection, form.</p> <p>8 A. I just don't know how I can respond about how</p> <p>9 I felt about something that I don't know if it ever</p> <p>10 existed, either, so.</p> <p>11 Q. (BY MR. NOTZON) So you don't remember having</p> <p>12 a feeling about the idea of a petition?</p> <p>13 MS. HILTON: Objection, form.</p> <p>14 A. I don't remember that.</p> <p>15 Q. (BY MR. NOTZON) Let me follow up on a couple</p> <p>16 of the questions I had asked earlier. On Dr. Kim, I</p> <p>17 wanted to ask: Do you recall that she actually did go</p> <p>18 up for tenure and received a vote from the Budget</p> <p>19 Council?</p> <p>20 A. I do.</p> <p>21 Q. Okay. And do you recall that the initial</p> <p>22 reaction to her going up for tenure was positive from</p> <p>23 the Budget Council before the vote?</p> <p>24 A. What are you referring to as "the initial</p> <p>25 response"?</p>	<p style="text-align: right;">133</p> <p>1 Q. Okay. And when you say, "It didn't move out</p> <p>2 of the department," when it gets a negative vote from</p> <p>3 the Budget Council, it doesn't go to the College?</p> <p>4 A. I'm hazing on the specifics behind Miryung's</p> <p>5 case. Because it was an early promotion, it wasn't an</p> <p>6 up-or-out year, so she had an opportunity at that point</p> <p>7 to curtail the process. So it's possible that's what</p> <p>8 happened.</p> <p>9 Q. Okay. So you don't remember if she withdrew</p> <p>10 it voluntarily or not?</p> <p>11 A. I don't remember.</p> <p>12 Q. Okay. So you wouldn't have been the one</p> <p>13 advising her one way or the other?</p> <p>14 A. Oh, I very well might have been. We were</p> <p>15 close friends.</p> <p>16 Q. But you don't remember doing that?</p> <p>17 A. I don't remember one way or the other, no.</p> <p>18 Q. Do you remember her complaining that a male</p> <p>19 member of the faculty had been sabotaging her efforts,</p> <p>20 either her promotion package or her research?</p> <p>21 A. I don't remember.</p> <p>22 Q. Did you have any official role to play in her</p> <p>23 dossier?</p> <p>24 A. I don't remember that, either. She was in my</p> <p>25 research area, but I'd have to look back at the timing.</p>

<p style="text-align: right;">134</p> <p>1 I might not have been on the Budget Council at that  2 point. I don't remember for sure. I'd have to look  3 back. I definitely assisted her and provided her  4 feedback on things at different times.  5 Q. Do you remember if she went to the office of  6 the OIE, the Office of Equity and Inclusion, to complain  7 about the male faculty member?  8 A. I don't clearly remember one way or the other.  9 Q. Okay. But after that withdrawing of her  10 promotion dossier, she left UT?  11 A. She did.  12 Q. She had the opportunity to go up a second  13 time, but she decided not to stay at UT; is that right?  14 A. That's correct.  15 Q. And for you, personally, I asked you about the  16 early promotion possibility. Was that -- did you  17 actually consider it?  18 A. Yes, I considered it in consultation with a  19 Department Chair and my mentors at the time.  20 Q. Okay. And it didn't go any further than those  21 discussions?  22 A. No, I didn't -- my case didn't even go up to  23 preliminary vote to the faculty. Who they also talked  24 to, to get input, I don't know; but as far as I'm  25 concerned, I didn't put anything together packet-wise.</p>	<p style="text-align: right;">136</p> <p>1 MS. HILTON: Objection, form.  2 A. That's correct.  3 Q. (BY MR. NOTZON) I mean, from your experience,  4 faculty, when they want to signal their support, they  5 pull out the adjectives?  6 A. We do. You know, here, we're saying things  7 like, "She has contributed. She stepped in." We're not  8 saying, "She excelled at," as an example.  9 Q. Yeah. Okay. You state the positive facts,  10 but you characterize them further with adjectives and  11 other facts that put it in context that this is above  12 and beyond good?  13 A. In fact, we would use words like, "This is  14 above and beyond good," is what we would say.  15 Q. Some comparison, comparative description, yes.  16 Okay.  17 Was there anything else about  18 Dr. Nikolova's dossier besides what you've commented on,  19 the teaching, that put you on the fence for  20 Dr. Nikolova?  21 A. Yeah. So we've talked mostly about the  22 undergraduate teaching. I think the graduate teaching  23 was particularly concerning because usually the course  24 instructor ratings for graduate courses are quite high,  25 and hers are low and on average. And, again, averages</p>
<p style="text-align: right;">135</p> <p>1 Q. And from your understanding of those  2 discussions, was that their advice to you?  3 A. Yes, their advice to me was very clear; and  4 it's memorable.  5 Q. Okay. "Wait," was that the advice?  6 A. "Wait. There is a strong -- there is a higher  7 bar for an early promotion, and you have a very strong  8 regular term promotion case. Wait."  9 Q. Okay. And you didn't have prior service at  10 another university that you could try to argue that met  11 your six years, correct?  12 A. I came straight to UT from my graduate degree.  13 Q. Okay. Related to you being on the fence about  14 Dr. Nikolova's promotion -- that was your comment when I  15 was asking you about the teaching document that you  16 created with your colleague -- was there anything else  17 in the document other than that last sentence, that  18 summary sentence at the end, where you said it wasn't as  19 strong as some of the other sentences you'd written?  20 A. I can't point to anything specifically; but  21 especially in the time period where this was written,  22 this is not an effusively strong statement. This is a  23 good statement. This is a statement of good teaching.  24 Q. When it's great, there's a lot of adjectives  25 that are included; is that right?</p>	<p style="text-align: right;">137</p> <p>1 are averages. I think that was concerning for me.  2 And I think that a lack of teaching  3 record, so even with the time and service, the number of  4 classes she'd had the opportunity to teach was low. So  5 it was hard to see what was going on.  6 And then I recall that I had concerns  7 personally about kind of student advising and mentoring  8 and whether or not students felt supported in her  9 research group.  10 Q. Where did that concern come from?  11 A. Just from conversations with students. I  12 don't recall if it was in the advising statement that  13 was submitted with her dossier, but these were kind of  14 inputs that came up in the conversation in the faculty  15 meeting. I mean, these were things that impacted my  16 decision, my thinking on that case.  17 Q. Back to the teaching scores, we had talked  18 about how you compare courses and scores and how -- what  19 a good comparison is and what isn't. You saw from her  20 rebuttal where she says on the undergraduate teaching  21 scores, that those were in the -- she was, like, the top  22 two or -- Number 2 or 3 out of the 14 professors that  23 have ever taught the course?  24 A. She said three, what I read when I read this;  25 and that may be true. I didn't do any data processing</p>

<p>138</p> <p>1 on this table, yeah.</p> <p>2 Q. So that's -- I mean, that would put her in,</p> <p>3 what, the top 15 percent?</p> <p>4 A. This isn't a comparison. I don't know where</p> <p>5 it would put her for this class. I also don't know</p> <p>6 where it would put her relative to the department. I</p> <p>7 did notice in the Dean's letter that she pointed out</p> <p>8 that fewer than 16 -- or 16 or 17 percent of the faculty</p> <p>9 in the Cockrell School have 3.7 or lower, I think is</p> <p>10 what she said. So that puts the 3.7 at, you know, the</p> <p>11 bottom of the course instructor ratings.</p> <p>12 So, I mean, again, you can compare within</p> <p>13 class; but you also need to think about the class in a</p> <p>14 broader context of all the courses that are, say,</p> <p>15 required for undergraduate students and how this</p> <p>16 compares. And I haven't run those numbers. I don't</p> <p>17 know.</p> <p>18 Q. Well, wouldn't you agree that it's unfair to</p> <p>19 comment on the outlier low score and use that as a basis</p> <p>20 to say -- and anchoring her to the bottom 16 percent</p> <p>21 when that's the one outlier score?</p> <p>22 MS. HILTON: Objection, form.</p> <p>23 Q. (BY MR. NOTZON) And all the others are within</p> <p>24 .2?</p> <p>25 A. Yeah. The statistic from the Dean's letter</p>	<p>140</p> <p>1 engineering classes generally, the usefulness of that is</p> <p>2 to tank the professor, no?</p> <p>3 MS. HILTON: Objection, form.</p> <p>4 A. I guess it depends on what the relativeness of</p> <p>5 the scores are. I think that we want all of our -- I</p> <p>6 mean, Course Instructor Surveys' quantitative value are</p> <p>7 just one dramatically imperfect measure of a course; but</p> <p>8 they are one measure we have. They're a measure of the</p> <p>9 students' satisfaction with the course.</p> <p>10 Q. (BY MR. NOTZON) We're not arguing about that.</p> <p>11 We're talking about why you were on the fence. And</p> <p>12 we're talking about undergraduate scores and comparing a</p> <p>13 class where she's the top, Number 3, teacher score-wise</p> <p>14 of all the teachers that have taught the course over the</p> <p>15 past ten -- "X" years, and then trying to compare that</p> <p>16 as below the median of all engineering classes, which</p> <p>17 doesn't it take into account the contextual harm of all</p> <p>18 the factors that I said; and that's not fair, is it?</p> <p>19 MS. HILTON: Objection, form.</p> <p>20 A. There are two -- we have on the table two</p> <p>21 possible comparisons. Compare this class to all</p> <p>22 engineering classes. Compare Eddie's performance in</p> <p>23 this class just to this class. I think the right</p> <p>24 comparisons are to do -- we've got to go outside of the</p> <p>25 class because several of these instructors that are</p>
<p>139</p> <p>1 causes me to wonder what is the rest of the distribution</p> <p>2 of the scores; and so without the rest of that</p> <p>3 information, I can't comment on what 3.9 indicates.</p> <p>4 You're right, it'll be a number that's bigger than</p> <p>5 16.6 percent; but I don't know what the number would be.</p> <p>6 Q. Well, she went through it in her rebuttal; and</p> <p>7 she talks about how she is higher than -- well, let me</p> <p>8 ask another is-it-fair question. It's also not fair to</p> <p>9 compare the scores in that class across -- which is what</p> <p>10 the Dean did -- across engineering classes generally?</p> <p>11 MS. HILTON: Objection, form.</p> <p>12 A. As I said before, we do a lot of different</p> <p>13 cross-sections on these course instructor evaluations.</p> <p>14 We do averages for all courses. We'll do averages for</p> <p>15 just graduate versus undergraduate because, like I just</p> <p>16 said, graduate courses tend to be higher. We'll also do</p> <p>17 comparisons across required courses or, like we</p> <p>18 discussed earlier, courses based on size. I think all</p> <p>19 of those provide useful information of teaching</p> <p>20 performance.</p> <p>21 Q. (BY MR. NOTZON) Useful to what end is the</p> <p>22 issue, though, because if you're comparing a required</p> <p>23 high-registration class that has documented history on</p> <p>24 the low end, you know, the sub-four numbers; and you're</p> <p>25 then going to compare that to the median scores for</p>	<p>141</p> <p>1 listed are not teaching this class anymore for a reason.</p> <p>2 We're looking for new instructors who can do a better</p> <p>3 job of teaching this class, right?</p> <p>4 Q. (BY MR. NOTZON) That's your answer. Okay.</p> <p>5 Any other reasons you're on the fence</p> <p>6 with Dr. Nikolova's promotion other than what you've</p> <p>7 testified about so far?</p> <p>8 A. I don't recall any others.</p> <p>9 Q. Did you vote for Dr. Nikolova in the</p> <p>10 promotion?</p> <p>11 A. I did vote. Is that what you're asking?</p> <p>12 Q. For the promotion.</p> <p>13 A. I don't recall how I voted.</p> <p>14 Q. There was -- I think it was 32 to 1 and --</p> <p>15 A. And two abstentions, yeah. And I don't know</p> <p>16 how I voted.</p> <p>17 Q. Okay. You don't know, or you don't want to</p> <p>18 answer?</p> <p>19 A. I honestly don't know.</p> <p>20 Q. You don't know how you voted for the first</p> <p>21 female that had gone up in a while?</p> <p>22 A. The fact that she was female didn't impact my</p> <p>23 vote at all.</p> <p>24 Q. Okay. And why is that?</p> <p>25 A. Because it had nothing to do with her</p>

<p style="text-align: right;">142</p> <p>1 credentials for promotion or tenure.</p> <p>2 Q. I'm not saying that you voted because she was</p> <p>3 female as a criteria -- qualifying criteria. I'm saying</p> <p>4 you voted for a woman to get tenure or not, which would</p> <p>5 have been a meaningful event in your career, as an</p> <p>6 underrepresented female, that is a passion for you.</p> <p>7 That's not an event that would cause you to remember</p> <p>8 what your vote was?</p> <p>9 A. I'm saying that Eddie's tenure case is no more</p> <p>10 meaningful or less meaningful than any other tenure case</p> <p>11 we do. Whether or not it was a male or a female does</p> <p>12 not impact my decision nor does it impact my memory of</p> <p>13 that event.</p> <p>14 Q. So if you're voting for a female President,</p> <p>15 that wouldn't be a memorable vote?</p> <p>16 MS. HILTON: Objection, form.</p> <p>17 A. Well, I can tell you who I voted for in every</p> <p>18 single Presidential Election. They've all been quite</p> <p>19 memorable.</p> <p>20 Q. (BY MR. NOTZON) Okay. That's not an answer</p> <p>21 to my question, though.</p> <p>22 There's never been a female President.</p> <p>23 Would you not remember who you voted for if it was a</p> <p>24 female, because it would have been the first female</p> <p>25 President, not because she's a female, but because you</p>	<p style="text-align: right;">144</p> <p>1 Q. So you gave her advice to wait?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And did anyone else give her advice to</p> <p>4 wait that you're aware of?</p> <p>5 A. I was told secondhand, perhaps by Eddie,</p> <p>6 perhaps by the other people, that they had given her</p> <p>7 that advice.</p> <p>8 Q. Did you tell her why you wanted her to wait</p> <p>9 other than it's a higher bar?</p> <p>10 A. That would have been the reason I would give.</p> <p>11 Q. Okay. Did you not give her context that,</p> <p>12 "It's a higher bar, and I'm not sure that you meet that</p> <p>13 higher bar" or "I don't think you meet that higher bar"?</p> <p>14 A. I don't know how explicit I might have been in</p> <p>15 those conversations.</p> <p>16 Q. When you were pregnant during your</p> <p>17 probationary period, did you teach that course, that</p> <p>18 undergraduate course?</p> <p>19 A. I don't think so.</p> <p>20 Q. Okay. Did you ever get teaching scores below</p> <p>21 4.0?</p> <p>22 A. I don't remember. I'd have to go back and</p> <p>23 look at all my teaching scores. It's possible that I</p> <p>24 did early on.</p> <p>25 Q. Do you recall that your lowest score on record</p>
<p style="text-align: right;">143</p> <p>1 thought she was the best candidate?</p> <p>2 MS. HILTON: Objection, form.</p> <p>3 A. I mean, I believe that I will remember who I</p> <p>4 voted for for President because it is a memorable event,</p> <p>5 not because -- and I will remember who I voted for</p> <p>6 because of who they were, not necessarily because they</p> <p>7 were female.</p> <p>8 Q. (BY MR. NOTZON) Okay. So this was not a</p> <p>9 memorable event for you, voting for Dr. Nikolova or not?</p> <p>10 A. It was no more memorable than voting for any</p> <p>11 other promotion case, for me.</p> <p>12 Q. Do you remember how you voted for Kim,</p> <p>13 Dr. Kim, Step 2?</p> <p>14 A. I can't be absolutely sure how I voted for her</p> <p>15 case.</p> <p>16 Q. Did you ever tell Dr. Nikolova not to go up</p> <p>17 for early promotion?</p> <p>18 A. We had several conversations. I kind of</p> <p>19 served as something of an informal mentor, where she</p> <p>20 relayed she had been given this information; and I and</p> <p>21 others were trying to make it clear that this was going</p> <p>22 to be considered an early promotion and that the early</p> <p>23 promotion had a higher bar and that she should</p> <p>24 definitely consider the advice that she was being given</p> <p>25 about waiting.</p>	<p style="text-align: right;">145</p> <p>1 is the semester you were pregnant?</p> <p>2 A. I do not recall that.</p> <p>3 Q. That's something you could look up, isn't it?</p> <p>4 A. I could look it up.</p> <p>5 Q. Do you know if you were breastfeeding during a</p> <p>6 semester when you were teaching?</p> <p>7 A. Oh, certainly, twice probably -- or maybe more</p> <p>8 than that, actually. I breastfed my children for a year</p> <p>9 each.</p> <p>10 Q. And do you recall whether or not your teaching</p> <p>11 scores were lower at those semesters?</p> <p>12 A. I do not recall.</p> <p>13 Q. Are you aware -- well, let's go ahead and look</p> <p>14 at a couple of documents. You were the Chair of the</p> <p>15 Faculty -- I know I'm going to get this wrong --</p> <p>16 Evaluation Committee?</p> <p>17 A. The Faculty Annual Review Committee?</p> <p>18 Q. Yeah.</p> <p>19 A. Yeah.</p> <p>20 Q. And there's a faculty annual review, and then</p> <p>21 there's a peer evaluation?</p> <p>22 A. A peer teaching observation. So the faculty</p> <p>23 annual review is also technically a peer review because</p> <p>24 you're being reviewed by your peers, right, but it's</p> <p>25 called the faculty annual review; and then there are</p>



<p>146</p> <p>1 peer teaching observations that are done of classroom 2 instruction.</p> <p>3 Q. Okay. And those are two different things. So 4 I want to talk about the one where you were the chair, 5 and so let me go ahead and put up a document that I 6 think was created for -- by your department on the whole 7 faculty. So this would be...</p> <p>8 MR. NOTZON: Debbie, is this Exhibit 14? 9 THE REPORTER: Yes. 10 THE WITNESS: A spreadsheet, is that what 11 I'm opening here? 12 MR. NOTZON: Yes, uh-huh. 13 THE WITNESS: Okay. 14 (Exhibit 14 marked, but withdrawn.)</p> <p>15 Q (BY MR. NOTZON) Oh, that's not the one I was 16 looking for, I don't think. 17 Okay. But there it is. All right. I'll 18 put up the other one, Exhibit 15. 19 (Exhibit 15 marked.)</p> <p>20 A. Okay. I'm familiar with this one. 21 Q (BY MR. NOTZON) Okay. And if you look down 22 to where Dr. Nikolova is -- 23 A. Sorry. Scrolling. 24 I'm there. 25 Q. Okay. Which line is it?</p>	<p>148</p> <p>1 if you added anything or not to the language -- or took 2 anything away from the language in 47 D?</p> <p>3 A. I don't believe that I did. I may have added 4 connector words, semicolons, that sort of thing; but I 5 didn't add words. 6 Q. All right. Then let me pull up another one. 7 MR. NOTZON: So this will be Exhibit 16. 8 (Exhibit 16 marked.) 9 THE WITNESS: Okay. 10 Q (BY MR. NOTZON) Okay. And this confirms what 11 you testified about, right, that Constantine was one of 12 the people rating; and he gave Dr. Nikolova a "Meets 13 Expectations," correct? 14 A. Uh-huh, that's right. 15 Q. So you see the explanation there, "Reasonable 16 publication record. Teaching record also okay. Service 17 to the department is low, but perhaps this is on account 18 of having been on leave." Do you see that? 19 A. Yes. 20 Q. Was she on leave? 21 A. She was on Modified Instructional Duty. 22 Q. So she wasn't on leave? 23 A. She was not on leave. 24 Q. Okay. And she was on Modified Instructional 25 Duty because of her -- because of a new baby or because</p>
<p>147</p> <p>1 A. 47. 2 Q. Thank you. 3 A. Sure. 4 Q. Okay. And whose language is that in 47 D? 5 A. That would have been the two reviewers of 6 her -- yeah, so the two independent reviewers of her 7 files from that committee, which in this particular case 8 was Constantine Caramanis and Michael Orshansky. They 9 will have submitted language, and then I will have 10 merged them and then given it back to the entire 11 committee for their approval. So it kind of has mostly 12 Michael and Constantine, but a little bit of me. 13 Q. Okay. And it says, "Meets Expectations." 14 And would it be accurate that this is for the year '18- 15 '19, right? 16 A. Right. 17 Q. Which is the year that she went up and was 18 denied tenure, but this was conducted the year after; is 19 that right? 20 A. That's right because the review was for the 21 period from September 2019 through -- I'm sorry -- 22 September 2018 through August 2019, but the review was 23 done in the Spring of 2020. That's the cadence for this 24 review. 25 Q. Okay. And sitting here today, you don't know</p>	<p>149</p> <p>1 she was pregnant? 2 A. I don't know that we were told. 3 Q. Okay. All right. But you were clear that it 4 was because of child issues? 5 A. I don't know that we were told. 6 Q. Okay. And at this point you're not 7 communicating with Dr. Nikolova to know that personally; 8 is that right? 9 A. Modified Instructional Duty requires a 10 conversation with the Department Chair for the 11 justification of Modified Instructional Duty. I'm not 12 the Department Chair, so she didn't have that 13 conversation with me. 14 Q. I didn't ask about your official capacity. I 15 asked about your personal capacity. 16 A. But what I'm trying to say is that even if I'd 17 known in a personal capacity that she was pregnant, that 18 doesn't necessarily say why she was on Modified 19 Instructional Duty. It could have been for a different 20 reason. 21 Q. It wouldn't be hard to draw that conclusion 22 from your own experience? 23 A. But it might be incorrect. 24 Q. Were you able to know if she was on leave or 25 not?</p>



<p>150</p> <p>1 A. The input to the Faculty Review Committee 2 would have told us if she was on leave. So the 3 statement that she was on Modified Instructional Duty 4 for Fall of 2018 and that we should review only Spring 5 activities came to us as a directive when we were given 6 the instructions, like that kind of template spreadsheet 7 from which we drew that. 8 I'm sorry. I didn't quite answer your 9 question. In that same spreadsheet we would have been 10 told if she was on leave, instead. 11 Q. Okay. So why didn't you fix that in 12 Exhibit 15, 47 D? 13 A. What do you mean why didn't I fix it, fix 14 what? 15 Q. Because she wasn't on leave. 16 A. It doesn't say that she was on leave. It says 17 that she was -- oh, I see what you're saying. It says, 18 "...given the semester of leave." This is a -- yeah, 19 it's a mistake. Sorry. That's the first time I've 20 noticed it. To use the word "leave" in exchange for 21 Modified Instructional Duty, the intent there, I 22 interpreted that as a placeholder for Modified 23 Instructional Duty. 24 Q. So you admit that you should have fixed that? 25 A. I admit that there's a mistake and we used the</p>	<p>152</p> <p>1 view this as being accurate, that she, in fact, had less 2 production or, you know, less performance, justifying a 3 Meets Expectations in that year of '18-'19 than she had 4 had before? 5 MS. HILTON: Objection, form. 6 A. I agreed with this rating at the time. To 7 actually answer your question, I would have to go back 8 and review all of the input that went into this process. 9 I wasn't one of the two reviewers of this, the two 10 independent reviewers of this particular case. 11 Q. (BY MR. NOTZON) So how did you -- when you 12 say that you agreed with it, how did you agree with it 13 if you didn't have the information to assess whether or 14 not it was accurate? 15 A. Oh, I had the information. I just didn't 16 study it in detail. 17 Q. Okay. 18 A. So when we generated the ratings, then we all 19 looked over and kind of checked what the two deep divers 20 did. And in this particular case that was Constantine 21 and Michael. 22 Q. Okay. 23 MR. NOTZON: So this is Exhibit 17, 24 Debbie? 25 THE REPORTER: Yes.</p>
<p>151</p> <p>1 word "leave" when we should have repeated "Modified 2 Instructional Duty." 3 Q. Okay. Does Modified Instructional Duty give 4 you a pass on your performance? 5 A. It does not. Everything that you do on that 6 semester still counts, but this note was put in the 7 spreadsheet that we should consider only spring activity 8 or we should kind of change the denominator at some 9 level of the activity. 10 Q. Why? 11 A. That's the instructions we were given. 12 Q. From whom? 13 A. The template spreadsheet comes to us from Jac 14 Erengil, who is the Executive Admin Associate from -- in 15 the department. I assume it's coming to her from the 16 Department Chair. 17 Q. So you're saying the instruction, you assume, 18 is from Chair Tewfik? 19 A. At this time this would have been 20 Chair Marculescu. We had a new Department Chair at this 21 point in time. 22 THE REPORTER: I'm sorry. Can you repeat 23 that name? 24 THE WITNESS: I'm sorry. Marculescu. 25 Q. (BY MR. NOTZON) And would you have -- do you</p>	<p>153</p> <p>1 (Exhibit 17 marked.) 2 THE WITNESS: Okay. 3 Q. (BY MR. NOTZON) Okay. So on this one, this 4 is the other person assigned to review Dr. Nikolova; and 5 it says, "I submitted my rating and comments for Eddie." 6 But I don't see that. Do you know what they were? 7 A. They were placed directly in the box folder in 8 a shared -- I'm sorry -- a shared box folder in a 9 spreadsheet. I don't have those comments verbatim 10 handy. 11 Q. Okay. And so the process is that these 12 people, like, Constantine, had provided you the comments 13 in the e-mail. Did you then take them and put them in 14 the spreadsheet yourself or was that outside -- you 15 know, he did it in the e-mail instead of in the 16 spreadsheet or did he do it in both locations? 17 A. In this particular case, I don't recall, 18 especially, since this was a late one; but we kept a 19 generic spreadsheet. And I would have used 20 Constantine's comments and Michael's comments to merge 21 and -- or we would have collaborated on that to generate 22 the overall comment that you see in the other 23 spreadsheet. Whether I also copied over Constantine's 24 into that other spreadsheet, I don't recall. The 25 process for this was that everyone was supposed to put</p>

<p>154</p> <p>1 their stuff in the shared spreadsheet; but because this</p> <p>2 was kind of a lot of pressure because of the lateness of</p> <p>3 it, the process shifted a little.</p> <p>4 Q. And I noticed from some of the communications</p> <p>5 that several people are late; is that right?</p> <p>6 A. A very small number of people were late. I</p> <p>7 think we received three late that time.</p> <p>8 Q. And was Dr. Nikolova at fault for that</p> <p>9 lateness?</p> <p>10 A. As far as I can tell, yes.</p> <p>11 Q. Okay. Do you know any reason why she was</p> <p>12 late?</p> <p>13 A. No idea. We all received the same e-mails</p> <p>14 from the Executive Admin Assistant. If we were late, we</p> <p>15 received reminders a couple of times. I think that's in</p> <p>16 one of these e-mails. I don't know why. When Diana</p> <p>17 asked for it, we got it pretty quick after Diana finally</p> <p>18 asked for it, the Department Chair.</p> <p>19 Q. Okay. And did that affect her rating at all?</p> <p>20 A. No.</p> <p>21 Q. Did you understand that Dr. Nikolova had some</p> <p>22 issues with the language that's in Exhibit 15, Box 47 D?</p> <p>23 A. I did not know that until this morning.</p> <p>24 Q. Oh, okay. You never received any</p> <p>25 communications about her complaining about that?</p>	<p>156</p> <p>1 compilation of the data and there's three times that</p> <p>2 Dr. Nikolova got Meets Expectations. Are you familiar</p> <p>3 with whether or not those are the same years that she</p> <p>4 was on Modified Instructional Duty for her three kids?</p> <p>5 A. I don't know.</p> <p>6 Q. Okay. Were you on the committee on each of</p> <p>7 those three years?</p> <p>8 A. The years at the top here are the years of</p> <p>9 activity or the years of the committee?</p> <p>10 Q. The years that the evaluation applied.</p> <p>11 A. Okay. Yeah, I was the Chair of the committee</p> <p>12 for the last two columns here and on the committee the</p> <p>13 column before that.</p> <p>14 Q. Okay.</p> <p>15 A. And that was the first time I'd been on the</p> <p>16 committee, I think.</p> <p>17 Q. And so from your perspective, those are the</p> <p>18 accurate ratings that Dr. Nikolova received, without</p> <p>19 regard to her being on Modified Instructional Duty?</p> <p>20 A. I don't have any evidence right now to second</p> <p>21 guess them.</p> <p>22 Q. And the spreadsheet you were talking about</p> <p>23 that the reviewers would input the information into,</p> <p>24 that would turn into Exhibit 15; is that correct?</p> <p>25 A. I think we used a separate spreadsheet, and we</p>
<p>155</p> <p>1 A. As far as I know, no.</p> <p>2 Q. Okay. I'm going to put up another exhibit.</p> <p>3 MR. NOTZON: So Exhibit 18.</p> <p>4 (Exhibit 18 marked.)</p> <p>5 A. Okay.</p> <p>6 Q. (BY MR. NOTZON) So Dr. Nikolova writes to the</p> <p>7 Chair what she would propose the comments be because</p> <p>8 she's stating how strong her year had been, compared to</p> <p>9 the language that was in 47 D, that didn't comment at</p> <p>10 all about the strength of her year. She was saying it</p> <p>11 was one of her stronger years, no?</p> <p>12 A. That's what she says, yeah.</p> <p>13 Q. Do you not agree that that looks to be like a</p> <p>14 pretty strong year?</p> <p>15 A. It looks to me like it meets expectations for</p> <p>16 an ECE faculty member at the University of Texas at</p> <p>17 Austin.</p> <p>18 Q. So even reading that language from</p> <p>19 Dr. Nikolova, that doesn't change your opinion that she</p> <p>20 should be a Meets Expectations?</p> <p>21 A. It does not.</p> <p>22 MR. NOTZON: Exhibit 19.</p> <p>23 (Exhibit 19 marked.)</p> <p>24 A. Okay.</p> <p>25 Q. (BY MR. NOTZON) So this is kind of a</p>	<p>157</p> <p>1 moved things from one spreadsheet to another.</p> <p>2 Q. Okay. And do you know if you produced that</p> <p>3 other spreadsheet, that working spreadsheet?</p> <p>4 A. I don't know.</p> <p>5 Q. Okay.</p> <p>6 MR. NOTZON: Let's take a short break.</p> <p>7 THE REPORTER: We're going off the record</p> <p>8 at 3:19 p.m.</p> <p>9 (Off the record from 3:19 to 3:29 p.m.)</p> <p>10 THE REPORTER: We're back on the record</p> <p>11 at 3:29 p.m.</p> <p>12 Q. (BY MR. NOTZON) Okay. I'm going to put up</p> <p>13 another exhibit. So this will be --</p> <p>14 MR. NOTZON: What number are we on?</p> <p>15 THE REPORTER: 20.</p> <p>16 MR. NOTZON: 20. Okay. This will be</p> <p>17 Exhibit 20.</p> <p>18 (Exhibit 20 marked.)</p> <p>19 Q. (BY MR. NOTZON) Ready?</p> <p>20 A. Sure.</p> <p>21 Q. Okay. I'm not going to go over that right</p> <p>22 now. I'm going to save that until the end.</p> <p>23 A. Okay.</p> <p>24 Q. We have this silly little thing we've got to</p> <p>25 do.</p>

<p>158</p> <p>1 So let me go on and ask you -- I'm going 2 to put up another exhibit that we are going to talk 3 about, and this is Exhibit 21. 4 (Exhibit 21 marked.) 5 A. Okay. 6 Q. (BY MR. NOTZON) Okay. So this is an 7 interchange between you and Andrea Thomaz? 8 A. Andrea Thomaz. 9 Q. Andrea Thomaz, is that a male or female? 10 A. Female. 11 Q. I didn't hear you. 12 A. Female. 13 Q. Okay. And you see this is discussion about 14 Dr. Nikolova; is that right? 15 A. Yeah, these are responses to the elephant-in- 16 the-room e-mail. 17 Q. Okay. And we had mentioned -- I had asked you 18 questions about who you interacted with, and you didn't 19 mention this particular person. And I'm just wanting to 20 know if this refreshes your recollection. 21 A. Yeah, I don't think we exhausted the list. I 22 started listing them, and we kind of got distracted by 23 some other line of questioning. I didn't think that I 24 was done at the time. 25 Q. Okay. Are there others?</p>	<p>160</p> <p>1 about. I was really concerned about the impact on the 2 other assistant professors, in particular the female 3 assistant professors. And so I thought that this 4 e-mail, having been sent to the department the way it 5 was, from Eddie to everyone, was going to have a 6 significant negative impact. So that was one level. 7 I think another level was the one that 8 Andrea mentioned. Andrea and I had kind of started 9 serving as somewhat informal mentors for Eddie shortly 10 before her promotion case went forward. Andrea 11 expresses regret, that I think we share, that we hadn't 12 kind of done that sooner and more deeply. 13 And then I think the other big takeaway 14 is one that Eddie actually gets at in her e-mail is that 15 the Department itself wasn't having a conversation about 16 the outcome of her promotion and tenure. We weren't 17 having -- that wasn't shared with us. We weren't having 18 a conversation. We weren't discussing kind of what it 19 meant for us as a department, what it meant for our 20 junior faculty. 21 I think those are the big key things that 22 I recollect here. 23 Q. So when you say "has been handled badly on so 24 many levels," it sounded like from your answer -- and 25 correct me if I'm wrong -- that you were criticizing</p>
<p>159</p> <p>1 A. I definitely had Andrea on my mind at the time 2 when we were talking before. 3 Q. Let's finish the list out, then. 4 A. Sure, sure, sure. So I said. Hao and Jean 5 Anne before. I talked to Suzanne Barber, who was my own 6 mentor. She is still working as a faculty member in the 7 department. I talked to Andrea. I talked to Andrea's 8 husband, Edison. I talked to Mohit Tiwari. And I'm 9 trying remember what I was listing before because I 10 think I had said I was reaching out to assistant 11 professors. Andrea's not an assistant professor and 12 neither is Suzanne; but I think that's the people that I 13 probably -- I also talked to Sanjay Shakkottai about the 14 issue. Sanjay was, I believe, one of Eddie's former 15 mentors, so. 16 Q. Okay. And this is Andrea reaching out to you, 17 not vice versa, right? 18 A. Yes. In fact, this is Andrea reaching out to 19 me and then we had a back and forth and then we got 20 together. 21 Q. Okay. And let's go ahead and talk about this 22 conversation that you had with her. Could you explain 23 what you mean by it was handled badly on so many levels? 24 A. Yeah. I think that the biggest one that 25 sticks in my mind here is what we had already talked</p>	<p>161</p> <p>1 Dr. Nikolova's response to being denied tenure, instead 2 of the tenure promotion process? 3 A. Yeah, not just her response, but kind of 4 everybody's response to it. So kind of how the 5 Department handled it, how I hadn't dealt with it, 6 having known about it, and how Eddie dealt with it, as 7 well. That's the levels, right? 8 Q. Okay. But I want to make sure we know what 9 the "it" is, which is the response to the denial from 10 the Dean or the whole -- or the denial from the Dean 11 itself? 12 A. It was the response. The way that we -- what 13 I was referring to was the way we, as a department; I, 14 as an individual; Eddie, as an individual, had responded 15 to that decision by the Dean. 16 Q. And what are the "long, long stories"? 17 A. I don't know. It could have been 18 conversations, but I think that -- I don't remember -- 19 that Hao had stopped by my office, so stories related to 20 that. I don't know what the "long, long stories" refers 21 to. I mean, like, I -- because Eddie had reached out to 22 me to help with her rebuttal, I had known about this 23 already. So it could be a reference to that, but I 24 don't know what it was. 25 Q. And what about -- did you have conversations</p>

<p>162</p> <p>1 with Andrea about the petition?</p> <p>2 MS. HILTON: Objection, form.</p> <p>3 A. I don't recall. I recall very little about</p> <p>4 the petition.</p> <p>5 Q (BY MR. NOTZON) What about conversations with</p> <p>6 the other people that you've now named?</p> <p>7 A. So the other people I named, Andrea, Edison,</p> <p>8 Mohit and Mohit's wife came over to my house for dinner</p> <p>9 shortly after this e-mail; and we talked a little bit</p> <p>10 about this. But that conversation was including Edison</p> <p>11 and Mohit, who were both assistant professors at that</p> <p>12 time, so it would have been a careful conversation</p> <p>13 because -- to, you know, control for the impact of this</p> <p>14 on them; and a lot of that was with our kids playing and</p> <p>15 screaming in the background, probably. That's one</p> <p>16 conversation.</p> <p>17 I think that the conversation with</p> <p>18 Suzanne -- her office is right next to mine -- and we</p> <p>19 just kind of had a conversation about what happened,</p> <p>20 what could we, as a department, have done different;</p> <p>21 what could we, as a department, you know, do to support</p> <p>22 Eddie -- and by "different," I mean to support Eddie</p> <p>23 through this. I don't recall discussing the petition</p> <p>24 with anybody.</p> <p>25 Q. At this point was there any discussion about</p>	<p>164</p> <p>1 letters from senior colleagues in her field were</p> <p>2 extremely strong, as well. And, you know, research is a</p> <p>3 big portion of tenure and promotion at Tier 1 research</p> <p>4 institutions. So that was very strong.</p> <p>5 Q. What about her exposure nationally and</p> <p>6 internationally?</p> <p>7 A. Yeah. I mean, to me, that's part and parcel;</p> <p>8 but I should be explicit. Yeah, so her work with the</p> <p>9 Simon's Workshops, which is all spoken to in the</p> <p>10 letters; her publications in internationally-recognized</p> <p>11 venues, these were all part of her kind of research and</p> <p>12 the strength of her research.</p> <p>13 Q. Let's look back at Exhibit 19.</p> <p>14 A. Which one is that? Sorry.</p> <p>15 Q. Oh, it's the little chart of Es and MEs.</p> <p>16 A. Okay. Annual Review Comparators, that one?</p> <p>17 Q. Yeah, technically, to describe it by its name.</p> <p>18 Okay. So for 2016, do you know if --</p> <p>19 Dr. Tiwari, when he got Exceeds Expectations, if he was</p> <p>20 praised for his highly competitive conferences; but</p> <p>21 there's no mention of Dr. Nikolova's in hers, and she</p> <p>22 had three such papers at competitive conferences.</p> <p>23 A. I don't have the descriptions right in front</p> <p>24 of me. So I don't know what they say, so.</p> <p>25 Q. Do you have that available to you as the</p>
<p>163</p> <p>1 her complaints of gender or pregnancy discrimination?</p> <p>2 A. Well, it's in this e-mail that she sent to us.</p> <p>3 So it's possible that that came up. I do not explicitly</p> <p>4 recall speaking about that, even with the female</p> <p>5 assistant professors.</p> <p>6 Q. Ever?</p> <p>7 A. I do not recall speaking about that with</p> <p>8 anyone other than this information from Eddie. I don't</p> <p>9 recall that at all.</p> <p>10 Q. You didn't talk about it as being one way or</p> <p>11 the other? You didn't, say, believe it, not believe it?</p> <p>12 "It's improper allegations. You shouldn't have made the</p> <p>13 allegations. I'm worried about the allegations," none</p> <p>14 of that?</p> <p>15 A. I don't recall any conversations about the</p> <p>16 allegation of sexual discrimination or gender</p> <p>17 discrimination or pregnancy discrimination.</p> <p>18 Q. We went over earlier the reasons why you</p> <p>19 thought you were on the fence for Dr. Nikolova's tenure;</p> <p>20 and when we went over those things, we talked about the</p> <p>21 reason why you were on the fence from the negative side.</p> <p>22 What were the positive side of what you saw from</p> <p>23 Dr. Nikolova that you thought would have merited</p> <p>24 promotion?</p> <p>25 A. Sure. Her research is really strong; and her</p>	<p>165</p> <p>1 corporate rep? Should we move to that?</p> <p>2 A. I do have that, yes.</p> <p>3 Q. Okay. Let's go ahead and look at that</p> <p>4 Exhibit 20, the one with the Deposition Notice and the</p> <p>5 corporate rep topics.</p> <p>6 A. Okay.</p> <p>7 Q. That last page of the exhibit, are those what</p> <p>8 you understand to be the three topics that you're here</p> <p>9 to testify about as Texas?</p> <p>10 A. Yes, yes.</p> <p>11 Q. And, to the extent that we've asked any</p> <p>12 questions about Dr. Nikolova's annual evaluation and any</p> <p>13 of the other evaluation questions, would you adopt those</p> <p>14 as being the same thing you would have said as UT?</p> <p>15 A. Yes.</p> <p>16 Q. Okay.</p> <p>17 MS. HILTON: Robert, real quick, are you</p> <p>18 finished with the individual deposition; and you're</p> <p>19 moving to 30(b)(6) now?</p> <p>20 MR. NOTZON: Yes.</p> <p>21 MS. HILTON: I just wanted to make sure</p> <p>22 we're not jumping back and forth.</p> <p>23 MR. NOTZON: Yeah, I hope not to. Okay?</p> <p>24 MS. HILTON: Okay. Yeah.</p> <p>25 MR. NOTZON: And I understand,</p>

<p>166</p> <p>1 Ms. Hilton, that you're retaining objections to any 2 future concerns regarding this temporary fix, let's call 3 it?</p> <p>4 MS. HILTON: Right. Yes, I think that's 5 accurate.</p> <p>6 Q (BY MR. NOTZON) All right. So, 7 Professor Julien, when I'm asking you about -- you said 8 you had documentation available to you about the other 9 ratings for the other individuals?</p> <p>10 A. Yes.</p> <p>11 Q. And what is that?</p> <p>12 A. So, I mean, I've collected the spreadsheets 13 with the ratings in them. I don't know what the process 14 here is. Am I supposed to open them up and share them 15 similarly?</p> <p>16 Q. If you're going to review it to answer a 17 question, yeah, I'd like you to put it in the chat.</p> <p>18 A. Okay. So you're asking the question 19 specifically about the comparison between Mohit and 20 Eddie for the 2016-2017 review; is that right?</p> <p>21 Q. Let's see here. Let's do the '15-'16. That's 22 the one, I think, where he had a -- he was credited for 23 his highly competitive conference papers; but 24 Dr. Nikolova had three such papers and had not received 25 any credit for those or comments.</p>	<p>168</p> <p>1 Q. (BY MR. NOTZON) And so she's wondering what's 2 going on; she had three highly competitive conference 3 papers that year.</p> <p>4 A. Okay. Yeah, I mean, I guess the way I would 5 look at these reviews is that some of them mention 6 venues. In fact, I think the mention of venues on Mohit 7 seems to be the anomaly, not the other way around, so.</p> <p>8 Q. And Dr. Nikolova had an NSF CAREER funding, as 9 well.</p> <p>10 A. In that same period of review?</p> <p>11 Q. Yeah.</p> <p>12 A. It was received during 2015-'16?</p> <p>13 Q. Oh, no. But she --</p> <p>14 A. Yeah. So it's important to note that faculty 15 annual reviews review exactly one year. It doesn't look 16 at what happened before or after. It's looking only at 17 things that happened between September of the academic 18 year and August of the summer following the academic 19 year.</p> <p>20 Q. But the NSF CAREER funding, she's getting it 21 every year. So she would be continuing to get that 22 money, including this year, if she had had it from the 23 year before, right?</p> <p>24 A. Yes, but the mention of it in Mohit's, I would 25 take to mean here that he was awarded it that year. I</p>
<p>167</p> <p>1 A. Okay. So I have the spreadsheet where those 2 ratings exist. Do you want me to share it with you 3 since I'm looking at it now?</p> <p>4 Q. Sure.</p> <p>5 A. Okay.</p> <p>6 THE WITNESS: So this file sharing is new 7 to me. So let me see if I can not embarrass myself.</p> <p>8 MR. NOTZON: If you have a PC, you can 9 drag and drop it into the chat; but for Macs you have to 10 go through the clicking and browsing kind of thing.</p> <p>11 THE WITNESS: Well, I'm obviously an 12 academic Mac user.</p> <p>13 MR. NOTZON: Then you have the delays 14 like I have.</p> <p>15 THE WITNESS: Did that work for you?</p> <p>16 MR. NOTZON: I see it.</p> <p>17 THE WITNESS: Okay. Excellent.</p> <p>18 A. So this is what I collected as the results 19 from the '15-'16 annual review process, so that I can 20 see Mohit's review on Line 54. It does say, "Papers at 21 highly competitive conferences including MICRO and 22 Usenix Security. Strong funding including NSF CAREER." 23 And then for Nikolova, I see, "Good 24 publication, teaching and student supervision, funding 25 record, and service."</p>	<p>169</p> <p>1 would expect that a similar note would appear in Eddie's 2 review from whatever year she received the CAREER award. 3 So we note the award of the new funding in the year that 4 it's awarded. The fact that she has the money and the 5 money is supporting her research program is part of the 6 good, you know, student support or whatever. "Funding 7 record" is what it says there.</p> <p>8 Q. Right. It's just not -- this is the extent of 9 the information you have?</p> <p>10 A. This is what I have. Yeah, this is what I 11 have. And then I have her CV that I could go back and 12 kind of try to recreate what this committee was, you 13 know, doing at the time. I know the process this 14 committee went through, but I didn't talk to the 15 individual members who reviewed each one of these people 16 and ask: What were you thinking? What went into this 17 line of the review?</p> <p>18 Q. And you have this chart for each year?</p> <p>19 A. Yes, I do.</p> <p>20 Q. Okay. Could you go ahead and put up the 21 charts for the other years, as well, from the '16-'17, 22 '17-'18, '18-'19? Is that what you have?</p> <p>23 A. Yes. So the '19-'20 reviews we're in the 24 process of doing right now. So we haven't completed 25 them yet.</p>

<p>170</p> <p>1 Q. So just the ones you have completed.</p> <p>2 A. Do you want '14-'15, also?</p> <p>3 Q. Sure.</p> <p>4 A. Like, how far back do you want me to go?</p> <p>5 Q. That's the extent.</p> <p>6 A. Okay.</p> <p>7 Q. And then what we'll do is we'll put all of</p> <p>8 them together as one exhibit.</p> <p>9 A. Okay.</p> <p>10 MR. NOTZON: Is that okay with you,</p> <p>11 Ms. Hilton?</p> <p>12 MS. HILTON: Yes.</p> <p>13 MR. NOTZON: Have you got that,</p> <p>14 Ms. Cunningham?</p> <p>15 THE REPORTER: Yes.</p> <p>16 THE WITNESS: Sorry. I could have</p> <p>17 thought about making it one single, but I did not.</p> <p>18 MR. NOTZON: Don't worry about it.</p> <p>19 THE WITNESS: This is a lot of clicks,</p> <p>20 too.</p> <p>21 MR. NOTZON: Yeah.</p> <p>22 THE WITNESS: All right. One more.</p> <p>23 (Exhibit 22 marked.)</p> <p>24 MR. NOTZON: All right. Let's take a</p> <p>25 short break, like, just a couple of minutes, if you</p>	<p>172</p> <p>1 A. Yeah, substantial, or whatever.</p> <p>2 Q. Whatever you said before?</p> <p>3 A. Yeah.</p> <p>4 Q. Does that mean -- is it your testimony that</p> <p>5 research is the prime consideration in the research,</p> <p>6 teaching, and service?</p> <p>7 A. I don't think the University -- I'm sorry.</p> <p>8 This hat switching is -- so the University might not</p> <p>9 characterize it that way.</p> <p>10 I think, as faculty, we emphasize</p> <p>11 research as the most important thing in a tenure and</p> <p>12 promotion package, with teaching being a pretty close</p> <p>13 second, so.</p> <p>14 Q. Okay. And service is a requirement --</p> <p>15 A. Yeah.</p> <p>16 Q. -- to get all that done?</p> <p>17 A. Yes, but that's Christine. I'm sorry.</p> <p>18 Q. Right. You are Professor Julien right now.</p> <p>19 A. Yeah.</p> <p>20 Q. Thank you for taking off the other hat.</p> <p>21 All right. And then you had mentioned</p> <p>22 how you were talking with other individuals after the</p> <p>23 elephant-in-the-room e-mail and how you were discussing</p> <p>24 with people different ways to support Dr. Nikolova, and</p> <p>25 what did you do to support Dr. Nikolova as a result of</p>
<p>171</p> <p>1 don't mind watching your screen.</p> <p>2 MS. HILTON: Okay.</p> <p>3 THE REPORTER: We're going off the record</p> <p>4 at 3:51 p.m.</p> <p>5 (Off the record from 3:51 to 3:56 p.m. )</p> <p>6 THE REPORTER: We are back on the record</p> <p>7 at 3:56 p.m.</p> <p>8 Q (BY MR. NOTZON) Okay. I have just a few</p> <p>9 follow-up questions that are not corporate rep</p> <p>10 questions.</p> <p>11 MS. HILTON: Well, Robert, I think we had</p> <p>12 discussed before we had agreed that we wouldn't be doing</p> <p>13 a bunch of hat switching.</p> <p>14 MR. NOTZON: Right. This is a follow-up,</p> <p>15 just a few follow-up questions; and then we're done.</p> <p>16 MS. HILTON: Okay.</p> <p>17 MR. NOTZON: We're not going to go back</p> <p>18 and forth.</p> <p>19 MS. HILTON: Okay.</p> <p>20 MR. NOTZON: We're just going to go back.</p> <p>21 MS. HILTON: Okay.</p> <p>22 Q (BY MR. NOTZON) So, Professor Julien, you had</p> <p>23 said recently, today, that research is a -- did you use</p> <p>24 the word critical factor or important factor at a Tier 1</p> <p>25 institute?</p>	<p>173</p> <p>1 those conversations?</p> <p>2 A. Those conversations were more reflections on</p> <p>3 how could we adjust our mentoring precesses, what could</p> <p>4 we do. I didn't do anything actively to reach out to</p> <p>5 Eddie after the fact.</p> <p>6 I think that the meetings with the ECE</p> <p>7 women faculty may have started after that elephant-in-</p> <p>8 the-room e-mail. I may be a little off on the timing</p> <p>9 there. I know that just providing more community and</p> <p>10 support for women in the department is something we</p> <p>11 wanted to emphasize.</p> <p>12 Q. Okay. And do you remember hearing from anyone</p> <p>13 else what they were doing to support Dr. Nikolova,</p> <p>14 different than what you've just said you were doing?</p> <p>15 A. Yeah. I mean, there were some e-mails that</p> <p>16 colleagues sent to -- they just "replied all," right?</p> <p>17 So I would see some comments that people made to</p> <p>18 everyone. I don't remember the specifics. I'd have to</p> <p>19 go back and look at the specific e-mails, who they were</p> <p>20 from and what she said; but I know there were some</p> <p>21 colleagues who did express support in that way.</p> <p>22 Q. That was going to be my question. Was what</p> <p>23 they expressed supportive of Dr. Nikolova?</p> <p>24 A. I think that everything that I read -- and</p> <p>25 these were "reply alls" that included Eddie -- so I</p>



<p>174</p> <p>1 think they were all supportive, as I recall.</p> <p>2 Q. You don't recall anybody coming out and</p> <p>3 saying, "Ah," something not supportive?</p> <p>4 A. I don't recall anybody saying that on that</p> <p>5 reply-all thread, no, or in any other context, so.</p> <p>6 Q. And your own personal reaction, personal,</p> <p>7 professional, you, reaction to the elephant-in-the-room</p> <p>8 e-mail from Dr. Nikolova?</p> <p>9 A. I was sad.</p> <p>10 Q. Could you expound?</p> <p>11 A. That she found herself in the situation, that</p> <p>12 we as a department found ourselves in the situation. I</p> <p>13 mean, anybody can read from the e-mail that she was</p> <p>14 hurting; and it made me sad. It made me frustrated that</p> <p>15 she felt that way, yeah.</p> <p>16 Q. Did you feel that she was justified in her</p> <p>17 complaints of gender discrimination and/or pregnancy</p> <p>18 discrimination based upon the information she was</p> <p>19 conveying?</p> <p>20 A. I never once doubted that she was sincere in</p> <p>21 expressing how she felt and how she perceived the</p> <p>22 situation. I perceived it differently, but I never</p> <p>23 doubted her sincerity in that.</p> <p>24 Q. And what was the difference in how you</p> <p>25 perceived it?</p>	<p>176</p> <p>1 Professor Julien.</p> <p>2 THE WITNESS: Sure.</p> <p>3 THE REPORTER: Ms. Hilton, do you need a</p> <p>4 copy of the transcript?</p> <p>5 MS. HILTON: Yes, please.</p> <p>6 THE REPORTER: Thank you. This concludes</p> <p>7 the deposition at 4:03 p.m.</p> <p>8 (Deposition concluded at 4:03 p.m.)</p> <p>9 --ooOoo--</p>
<p>175</p> <p>1 A. I did not believe that her case was handled</p> <p>2 differently because she was a woman or because she had</p> <p>3 children.</p> <p>4 Q. Did you attempt to gather the information that</p> <p>5 she had available to her?</p> <p>6 MS. HILTON: Objection, form.</p> <p>7 A. I don't know what information you're alluding</p> <p>8 to. I mean, I had her entire promotion dossier. I had</p> <p>9 her teaching statement. I had her teaching reviews. I</p> <p>10 had the Dean's statement. I'm not sure what additional</p> <p>11 information she had available to her that I didn't have</p> <p>12 available. I didn't go looking for anything.</p> <p>13 Q. (BY MR. NOTZON) I guess you had her rebuttal,</p> <p>14 then, too, right?</p> <p>15 A. I had her rebuttal then, uh-huh.</p> <p>16 Q. Okay. And all of that combined did not lead</p> <p>17 you to the conclusion that her gender or her pregnancies</p> <p>18 had anything to do with the her being denied tenure or</p> <p>19 any other treatment that she received at UT?</p> <p>20 A. I did not take away that perception as my own</p> <p>21 perception, no.</p> <p>22 Q. All right.</p> <p>23 MR. NOTZON: I will pass the witness.</p> <p>24 MS. HILTON: No further questions.</p> <p>25 MR. NOTZON: All right. Thank you,</p>	<p>177</p> <p>1 CHANGES AND SIGNATURE</p> <p>2 WITNESS NAME: DATE OF DEPOSITION:</p> <p>3 CHRISTINE JULIEN March 19, 2021</p> <p>4 PAGE/LINE CHANGE REASON</p> <p>5 _____</p> <p>6 _____</p> <p>7 _____</p> <p>8 _____</p> <p>9 _____</p> <p>10 _____</p> <p>11 _____</p> <p>12 _____</p> <p>13 _____</p> <p>14 _____</p> <p>15 _____</p> <p>16 _____</p> <p>17 _____</p> <p>18 _____</p> <p>19 _____</p> <p>20 _____</p> <p>21 _____</p> <p>22 _____</p> <p>23 _____</p> <p>24 _____</p> <p>25 _____</p>



178

1 I, CHRISTINE JULIEN, have read the  
2 foregoing deposition and hereby affix my signature that  
3 same is true and correct, except as noted herein.

4

5

6 \_\_\_\_\_  
CHRISTINE JULIEN

7

8 THE STATE OF \_\_\_\_\_ )

9 Before me, \_\_\_\_\_, on

10 this day personally appeared CHRISTINE JULIEN, known to  
11 me (or proved to me under oath or through

12 \_\_\_\_\_) (description of identity card or other  
13 document) to be the person whose name is subscribed to  
14 the foregoing instrument and acknowledged to me that  
15 they executed same for the purposes and consideration  
16 therein expressed.

17 Given under my hand and seal of office on  
18 this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

19

20

21

22 \_\_\_\_\_  
NOTARY PUBLIC IN AND FOR

23 THE STATE OF \_\_\_\_\_

24 My Commission Expires: \_\_\_\_\_

25

179

1 STATE OF TEXAS )

2 REPORTER'S CERTIFICATION

3 I, DEBBIE D. CUNNINGHAM, CSR, hereby  
4 certify that the witness was duly sworn and that this  
5 transcript is a true record of the testimony given by  
6 the witness.

7 I further certify that I am neither  
8 counsel for, related to, nor employed by any of the  
9 parties or attorneys in the action in which this  
10 proceeding was taken. Further, I am not a relative or  
11 employee of any attorney of record in this cause, nor am  
12 I financially or otherwise interested in the outcome of  
13 the action.

14 Subscribed and sworn to by me this day,  
15 April 5, 2021.

16

17

18

19

20 \_\_\_\_\_  
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25

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# EXHIBIT 14

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

EVDOKIA NIKOLOVA  
Plaintiff,

V.

UNIVERSITY OF TEXAS AT  
AUSTIN,  
Defendant.

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CASE NO. 1:19-cv-00877-RP

ORAL VIDEOTAPED AND VIDEOCONFERENCED DEPOSITION

OF

GREGORY L. FENVES,

AS BOTH ORGANIZATION REPRESENTATIVE

AND AS FACT WITNESS

Thursday, May 27, 2021

ORAL VIDEOTAPED AND VIDEOCONFERENCED  
DEPOSITION OF GREGORY L. FENVES, produced as a witness  
at the instance of the Plaintiff, and duly sworn, was  
taken in the above-styled and numbered cause on  
Thursday, May 27, 2021, from 9:05 a.m. to 5:11 p.m.,  
before Debbie D. Cunningham, CSR, in and for the State  
of Texas, reported remotely via Machine Shorthand,  
pursuant to the Federal Rules of Civil Procedure.

--ooOoo--

<p>2</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 FOR PLAINTIFF:</p> <p>4 THE LAW OFFICE OF ROBERT NOTZON</p> <p>5 1502 West Avenue</p> <p>6 Austin, Texas 78701</p> <p>7 (T) 512.474.7563</p> <p>8</p> <p>9 By: Robert Notzon, Esq.</p> <p>10 Robert@NotzonLaw.com</p> <p>11 AND</p> <p>12 CREWS LAW FIRM, P.C.</p> <p>13 701 Brazos, Suite 900</p> <p>14 Austin, Texas 78701</p> <p>15 (T) 512.484.2276</p> <p>16</p> <p>17 By: Robert W. Schmidt, Esq. (Videographer)</p> <p>18 schmidt@crewsfirm.com</p> <p>19</p> <p>20 FOR DEFENDANT:</p> <p>21</p> <p>22 OFFICE OF THE ATTORNEY GENERAL OF TEXAS</p> <p>23 General Litigation Division</p> <p>24 P.O. Box 12548, Capitol Station</p> <p>25 Austin, Texas 78711-2548</p> <p>26 (T) 512.463.2120</p> <p>27</p> <p>28 By: Benjamin Dower, Esq.</p> <p>29 benjamin.dower.oag.texas.gov</p> <p>30 AND</p> <p>31 Amy Hilton, Esq.</p> <p>32 amy.hilton@oag.texas.gov</p> <p>33</p> <p>34 ALSO PRESENT:</p> <p>35</p> <p>36 Evdokia Nikolova</p> <p>37 Laura Barbour</p> <p>38 Jody Hughes</p> <p>39</p> <p>40 --ooOoo--</p> <p>41</p>	<p>4</p> <p>1 EXHIBIT INDEX</p> <p>2 Exhibit Number Description Page</p> <p>3 Exhibit 33 Deposition Notice 12</p> <p>4 Exhibit 34 2017-2018 Faculty Annual Report 75</p> <p>5 Exhibit 35 Spreadsheet 78</p> <p>6 Exhibit 2 Dean Wood's Assessment of 102</p> <p>7 Evdokia Nikolova</p> <p>8</p> <p>9 Exhibit 36 2018-2019 Evaluation Template, 105</p> <p>10 Cockrell School of Engineering,</p> <p>11 Promotion and Tenure Committee</p> <p>12 for Evdokia Nikolova</p> <p>13 Exhibit 37 11/13 &amp; 14/2018 e-mail exchange 106</p> <p>14 between Sharon Wood and Sonya</p> <p>15 Shaffer, RE: Nikolova</p> <p>16 Exhibit 38 2018-19 Academic Year General 114</p> <p>17 Guidelines For Promotion and</p> <p>18 Tenure</p> <p>19 Exhibit 39 Evdokia Nikolova dossier 129</p> <p>20 Exhibit 40 Recommendation For Change in 182</p> <p>21 Academic Rank/Status and</p> <p>22 Statistical Summary for</p> <p>23 Brady R. Cox</p> <p>24</p> <p>25 Exhibit 41 Recommendation For Change in 189</p> <p>26 Academic Rank/Status and</p> <p>27 Statistical Summary for</p> <p>28 John T. Foster</p> <p>29 Exhibit 42 Recommendation For Change in 199</p> <p>30 Academic Rank/Status and</p> <p>31 Statistical Summary for</p> <p>32 Zoya Heidari</p> <p>33</p> <p>34 Exhibit 43 Recommendation For Change in 206</p> <p>35 Academic Rank/Status and</p> <p>36 Statistical Summary for</p> <p>37 Stephen Boyles</p> <p>38 --ooOoo--</p> <p>39</p>
<p>3</p> <p>1 INDEX</p> <p>2 APPEARANCES 2</p> <p>3</p> <p>4 EXAMINATION OF GREGORY L. FENVES:</p> <p>5 BY MR. NOTZON 8</p> <p>6 BY MR. DOWER 207</p> <p>7 BY MR. NOTZON 208</p> <p>8</p> <p>9</p> <p>10 CHANGES AND SIGNATURE 210</p> <p>11 REPORTER'S CERTIFICATION 212</p> <p>12</p> <p>13 --ooOoo--</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>5</p> <p>1 (Thursday, May 27, 2021, from 9:05 a.m.)</p> <p>2 P R O C E E D I N G S</p> <p>3 THE REPORTER: Today is Thursday, May 27,</p> <p>4 2021. This is the videoconferenced deposition of</p> <p>5 Gregory L. Fenves in the matter of Nikolova versus UT.</p> <p>6 Due to the COVID-19 Pandemic we are</p> <p>7 remotely situated, and we are on the record at 9:05 a.m.</p> <p>8 Central Standard Time.</p> <p>9 My name is Debbie Cunningham, and my</p> <p>10 business address is P.O. Box 245, Manchaca, Texas 78652.</p> <p>11 Would all Counsel present please</p> <p>12 introduce themselves for the record, starting with</p> <p>13 Plaintiff's Counsel?</p> <p>14 MR. NOTZON: Robert Notzon and Bob</p> <p>15 Schmidt for the Plaintiff, Evdokia Nikolova.</p> <p>16 MR. DOWER: Benjamin Dower and Amy Hilton</p> <p>17 for The University of Texas at Austin, the Defendant.</p> <p>18 And I believe that's all the counsel who</p> <p>19 will be speaking today, and it may be fewer, even, than</p> <p>20 that.</p> <p>21 (Witness sworn by the reporter.)</p> <p>22 MR. NOTZON: Good morning. Doctor, I</p> <p>23 guess let's -- let's get clear first, Dr. Fenves, that</p> <p>24 Ben has some stipulations that he'd like to read.</p> <p>25 MR. DOWER: Thank you, Robert. I won't</p>

<p>6</p> <p>1 take up too much time with this.</p> <p>2 First, the parties stipulate that this</p> <p>3 deposition may be taken remotely via Zoom.</p> <p>4 The parties stipulate that "objection,</p> <p>5 form" is sufficient to preserve objections to the form</p> <p>6 of the questions and will be used in lieu of the more</p> <p>7 specific form-based objections.</p> <p>8 The parties stipulate that all objections</p> <p>9 except to form of the question or answer are reserved</p> <p>10 until trial.</p> <p>11 And then, finally -- and this is really</p> <p>12 more to Ms. Cunningham and not so much a stipulation --</p> <p>13 that the Deponent would like an opportunity to review</p> <p>14 the transcript and recording, pursuant to the Federal</p> <p>15 Rule of Civil Procedure 30(e).</p> <p>16 MR. NOTZON: Okay. And, Bob, you're</p> <p>17 recording. Can you pin Dr. Fenves?</p> <p>18 MR. SCHMIDT: I have pinned him.</p> <p>19 And, also, while we're talking about</p> <p>20 stipulations, I think we've also stipulated that it's</p> <p>21 not -- that I can record, and it's not necessary to</p> <p>22 announce the start and stop time when we record.</p> <p>23 MR. DOWER: That is correct. Thanks,</p> <p>24 Bob.</p> <p>25 MR. SCHMIDT: Excellent. No, thank you.</p>	<p>8</p> <p>1 THE WITNESS: It's fine.</p> <p>2 MR. NOTZON: Good. Okay.</p> <p>3 GREGORY L. FENVES,</p> <p>4 having been duly sworn, testified as follows:</p> <p>5 EXAMINATION</p> <p>6 BY MR. NOTZON:</p> <p>7 Q Good morning, Dr. Fenves.</p> <p>8 A. Good morning.</p> <p>9 Q. Thank you for being here. I appreciate it,</p> <p>10 especially with the schedule jockeying that we've been</p> <p>11 doing for a long time now. We're finally here to get</p> <p>12 this done.</p> <p>13 So if you could, tell us where you are</p> <p>14 presently employed.</p> <p>15 A. I am presently employed by Emory University in</p> <p>16 Atlanta, Georgia.</p> <p>17 Q. Okay. And you're the president there, and you</p> <p>18 started at what date?</p> <p>19 A. I'm the President of Emory University; and</p> <p>20 that was beginning August 1st, 2020.</p> <p>21 Q. Okay. And you were -- prior to that, you were</p> <p>22 the President of the University of Texas at Austin for</p> <p>23 how long?</p> <p>24 A. I was president of UT Austin from June of 2015</p> <p>25 until May 31st, 2020.</p>
<p>7</p> <p>1 Yeah.</p> <p>2 MR. NOTZON: Okay. I only say that, Bob,</p> <p>3 because the green highlight keeps moving around; and I</p> <p>4 didn't know if that was normal for the recording if you</p> <p>5 pinned Dr. Fenves.</p> <p>6 MR. SCHMIDT: I don't know -- sorry. I</p> <p>7 don't know about the highlight. I'm not seeing that on</p> <p>8 my screen, but I do have him pinned on my screen.</p> <p>9 MR. NOTZON: Okay. Good.</p> <p>10 MR. SCHMIDT: We can -- when we go on a</p> <p>11 break, I'll double-check and make sure everything looks</p> <p>12 okay.</p> <p>13 MR. NOTZON: And one more housekeeping</p> <p>14 matter. Ben, so in deposing Dr. Fenves, I can call him</p> <p>15 Dr. Fenves or I can call him President Fenves, you know,</p> <p>16 because we're talking to him in his role as the Former</p> <p>17 President of UT; but I also don't want to say "Former</p> <p>18 President."</p> <p>19 MR. DOWER: Well, he's also President of</p> <p>20 Emory. So, technically, "President" works for both past</p> <p>21 and present roles. Although, I don't have a preference</p> <p>22 if that's what you're asking.</p> <p>23 THE WITNESS: I don't have a preference.</p> <p>24 MR. NOTZON: Okay. So "Dr. Fenves" is</p> <p>25 fine?</p>	<p>9</p> <p>1 Q. And the role you held prior to being president</p> <p>2 at UT, could you tell us what that was and the dates?</p> <p>3 A. So immediately prior to the -- as president of</p> <p>4 UT, I was the Executive Vice President, Provost. That</p> <p>5 started October 2013 until I became president in June of</p> <p>6 2015. Prior to that, I was Dean of the Cockrell School</p> <p>7 of Engineering. The start date was September of 2008,</p> <p>8 and it ended when I became provost in October of 2013.</p> <p>9 Q. Okay. And was that your first job at UT?</p> <p>10 A. That was my first job in my return to UT. My</p> <p>11 first job at UT was an assistant professor from 1984 to</p> <p>12 the end of 1987.</p> <p>13 Q. And then where did you go?</p> <p>14 A. So from January 1988 until I left for UT in</p> <p>15 August of 2008 I was a professor and then later</p> <p>16 Department Chair at the University of California-</p> <p>17 Berkeley.</p> <p>18 Q. Okay. So you got your tenure at Berkeley?</p> <p>19 A. My tenure was at Berkeley, that's correct.</p> <p>20 Q. Okay. And did -- and how many years were you</p> <p>21 an assistant professor at Berkeley before you got</p> <p>22 tenure?</p> <p>23 A. I forget. That's so long ago, I'd have to go</p> <p>24 back and check my CV; but I believe I was awarded tenure</p> <p>25 in 1989.</p>

<p>10</p> <p>1 Q. Okay.</p> <p>2 A. I'd have to actually confirm that on my own</p> <p>3 CV.</p> <p>4 Q. So you do recall that you didn't go through a</p> <p>5 complete six years at Berkeley before getting tenure?</p> <p>6 A. That is correct.</p> <p>7 Q. Okay. So were you allowed to count your years</p> <p>8 at UT assistant professor to assist you in getting to</p> <p>9 the standard six before going up for tenure?</p> <p>10 A. Well, the -- this is my recollection of the UC</p> <p>11 Berkeley policies from nearly 30 years ago -- more than</p> <p>12 30 years ago, that the University looked at the</p> <p>13 accomplishments over the time as a rank of assistant</p> <p>14 professor; and that was considered the -- what was</p> <p>15 reviewed at the time of promotion.</p> <p>16 Q. Okay. Which would have included your work at</p> <p>17 UT?</p> <p>18 A. Right.</p> <p>19 Q. All right. And -- all right. What motivated</p> <p>20 you to come back to UT?</p> <p>21 A. I was offered the position to be a Dean of</p> <p>22 Engineering at the Cockrell School of Engineering,</p> <p>23 which was a very -- at a good point in my career to</p> <p>24 think about that -- that role; and I was familiar with</p> <p>25 the university and with the city of Austin from 20 years</p>	<p>12</p> <p>1 to download and so it's a process.</p> <p>2 A. Hopefully this doesn't exceed my technical</p> <p>3 capabilities.</p> <p>4 Q. Me too.</p> <p>5 Okay. I believe it should be there, and</p> <p>6 this is going to be Exhibit 33.</p> <p>7 A. Okay. I have it.</p> <p>8 (Exhibit 33 marked.)</p> <p>9 Q. (BY MR. NOTZON) Okay. And this is the</p> <p>10 Deposition Notice that sets out the three corporate rep</p> <p>11 topics.</p> <p>12 A. Okay.</p> <p>13 Q. And are you prepared to speak on those topics</p> <p>14 as UT?</p> <p>15 A. Yes, I am, recognizing I'm no longer employed</p> <p>16 by UT.</p> <p>17 Q. Right. That's the second time you've said</p> <p>18 that, but UT has designated you to speak as UT on those</p> <p>19 three topics?</p> <p>20 A. That's correct.</p> <p>21 Q. Okay. What did you do to prepare for those</p> <p>22 three topics -- well, actually I won't ask you that</p> <p>23 question just right now. I'm going to try to ask you</p> <p>24 the questions for you as the individual, Dr. Fenves, and</p> <p>25 then go into talking to you as UT on those three topics</p>
<p>11</p> <p>1 earlier when I had been there.</p> <p>2 Q. Were you recruited? You didn't apply; they</p> <p>3 came and found you?</p> <p>4 A. It was a typical recruitment. I was not</p> <p>5 looking for a job and I received a call, that would I be</p> <p>6 interested in being considered for the position; and I</p> <p>7 decided to answer affirmatively to that.</p> <p>8 Q. Who recruited you?</p> <p>9 A. Well, the recruitment -- again, I'm trying to</p> <p>10 remember. Well, there was a search committee, a search</p> <p>11 consultant, so I can't remember -- this was back in</p> <p>12 2008. So I can't remember who first contacted me. It</p> <p>13 was either a member of the search committee or a</p> <p>14 consultant. By that time you start talking to a number</p> <p>15 of people.</p> <p>16 Q. Okay. And you understand you are here as a</p> <p>17 fact witness, basically what you personally remember</p> <p>18 about what you saw or heard and experienced, as well as</p> <p>19 being designated to speak as UT on three specific</p> <p>20 topics. Do you -- are you aware of that?</p> <p>21 A. I'm aware of that, just recognizing I'm no</p> <p>22 longer employed by UT; but I do recognize that.</p> <p>23 Q. Okay. Let me go ahead and put -- we're going</p> <p>24 to go through exhibits during your deposition and what I</p> <p>25 will do is I will try to place them in the chat for you</p>	<p>13</p> <p>1 sometime later in the day. Okay?</p> <p>2 A. Okay.</p> <p>3 Q. So when you became -- when you went from dean</p> <p>4 to provost to dean [sic], those are essentially</p> <p>5 chain-of-command promotions, would you agree?</p> <p>6 A. I went from dean to provost to president;</p> <p>7 but -- just to correct your statement -- but that is</p> <p>8 correct, that was progressing up the leadership roles in</p> <p>9 the university.</p> <p>10 Q. I meant to say that, but I don't know what I</p> <p>11 said.</p> <p>12 Okay. And during that time, did you make</p> <p>13 any changes as the provost or as the president to the</p> <p>14 promotional processes for tenure?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Did you make any changes to the</p> <p>17 requirement that six years in place at UT would be the</p> <p>18 norm -- as tenure track?</p> <p>19 A. I made no changes to the policy on</p> <p>20 probationary period.</p> <p>21 Q. Okay. Did you make any changes to any one --</p> <p>22 any of the rules or policies related to going up prior</p> <p>23 to meeting the six-year probationary period at UT?</p> <p>24 A. I don't believe I made any changes to the way</p> <p>25 it had been handled at the time I joined UT in 2008.</p>

<p>14</p> <p>1 Q. Okay. And that would include the entire time</p> <p>2 from 2008 until the time you left, you believe that</p> <p>3 those policies and procedures remained constant?</p> <p>4 A. Regarding -- so there -- I do not recall any</p> <p>5 changes in policies. We did have some changes in</p> <p>6 procedures to try to improve the process, timing and</p> <p>7 clarification of information to faculty, department</p> <p>8 chairs, and deans. So there were some changes that</p> <p>9 were, you know, rather continual. Every year we looked</p> <p>10 at what we could improve.</p> <p>11 Q. Okay. Let me -- let me go ahead and specify</p> <p>12 those specific area of whether or not there were any</p> <p>13 changes; and that would be: Were there any changes that</p> <p>14 you implemented or observed between 2008 and when you</p> <p>15 left UT in the -- let's say the bar that you have to</p> <p>16 cross to get tenure if you -- if an assistant professor</p> <p>17 was put up for tenure prior to six years' probationary</p> <p>18 time at UT?</p> <p>19 A. I don't believe there were any changes.</p> <p>20 Q. Okay. Were there any changes to counting of</p> <p>21 time in probationary status made during that period of</p> <p>22 time?</p> <p>23 A. No.</p> <p>24 Q. So, for instance, if someone started as an</p> <p>25 assistant professor midyear, that midyear time would not</p>	<p>16</p> <p>1 one year -- and at some point the university did extend</p> <p>2 that to allow to up to two years of stop the clock. I</p> <p>3 don't remember when that occurred.</p> <p>4 Q. Okay. You weren't the decision-maker in</p> <p>5 making that change to two years?</p> <p>6 A. I was not -- certainly by the time I became</p> <p>7 president, that change had been incorporated. I don't</p> <p>8 remember if I was provost or if it occurred while I was</p> <p>9 dean.</p> <p>10 Q. Were you a moving factor in getting the policy</p> <p>11 change to add the potential for up to two years of stop</p> <p>12 the clock?</p> <p>13 MR. DOWER: Objection, form.</p> <p>14 Go ahead.</p> <p>15 A. Yes. I strongly believe in the stop-the-clock</p> <p>16 policies and the purpose of them.</p> <p>17 Q. (BY MR. NOTZON) Okay. And what do you</p> <p>18 understand the purpose of the policy is?</p> <p>19 A. It's -- the primary purpose is to recognize</p> <p>20 that faculty have family responsibilities, generally</p> <p>21 related to a child, either birth or adoption of a child,</p> <p>22 whether they're male or female, and that it was in the</p> <p>23 long-term benefit of the faculty member and of the</p> <p>24 University to recognize that in assessing their</p> <p>25 performance in the probationary period by extending --</p>
<p>15</p> <p>1 count for the probationary status?</p> <p>2 A. That is correct.</p> <p>3 Q. And if someone took a leave for a semester</p> <p>4 during a year, that whole year would not count toward</p> <p>5 the probationary leave -- I mean, probationary time?</p> <p>6 A. Well, it depends -- there were different kinds</p> <p>7 of -- well, I don't have the policies in front of me. I</p> <p>8 don't think there were any changes, but there were</p> <p>9 different kinds of leaves. And I don't remember,</p> <p>10 sitting here, exactly how those counted in regards to</p> <p>11 the probationary period.</p> <p>12 Q. Okay. Fair enough. Let me ask specifically</p> <p>13 related to probationary extension, which is different</p> <p>14 from leave, right?</p> <p>15 A. That is -- it is different. That's a very</p> <p>16 important difference.</p> <p>17 Q. Okay. And was probationary extension a policy</p> <p>18 that was in place prior to you coming to UT in 2008?</p> <p>19 A. Okay. So I'm trying to recollect. I believe</p> <p>20 there was a one-year -- we typically called it "stop-</p> <p>21 the-clock policy," which had the effect of extending the</p> <p>22 probationary period. I don't like the term "extending</p> <p>23 the probationary period," because there is a</p> <p>24 probationary period; and it was very clear how we</p> <p>25 counted it. So I prefer "stop the clock." I there was</p>	<p>17</p> <p>1 extending the period.</p> <p>2 Q. Okay. And -- and that's because six years is</p> <p>3 a long period of time; and if you're in the mood to make</p> <p>4 babies, you might want to have more than one in that</p> <p>5 six-year period of time. Is that right?</p> <p>6 A. Well, I can't -- so I can't speak for</p> <p>7 anybody's family, you know, goals; but it was a</p> <p>8 recognition that the one-year stop the clock was not</p> <p>9 meeting all the needs of the faculty. And as we looked</p> <p>10 at other universities -- comparable, top-ranked research</p> <p>11 universities -- many of them had two-year stop-the-clock</p> <p>12 policies. And we also operated in competing to recruit</p> <p>13 the best faculty, and that was a factor in our decision.</p> <p>14 Q. And did -- are you aware that UT at any time</p> <p>15 looked into the possibility that the stop-the-clock</p> <p>16 policy may have had differing impacts on faculty,</p> <p>17 depending upon their circumstance?</p> <p>18 A. So I don't understand the question. It was</p> <p>19 generally viewed as a benefit to the faculty, highly</p> <p>20 supported by the faculty. It was not a requirement. It</p> <p>21 was an option by a faculty member to elect to stop the</p> <p>22 clock.</p> <p>23 Q. Right. And -- and you said it could be used</p> <p>24 by male or female -- female or male faculty members</p> <p>25 as -- from its inception, through the time that you were</p>

<p>18</p> <p>1 president, correct?</p> <p>2 A. So that was the intent, certainly, in the</p> <p>3 later years. I think there probably was some</p> <p>4 uncertainty about the applicability of the policy to</p> <p>5 male faculty; but as -- as we clarified it, we made it</p> <p>6 very clear that there was no gender basis for the stop-</p> <p>7 the-clock policy. I can't recall what the -- when --</p> <p>8 and it probably happened before I got there in 2008,</p> <p>9 what the original application of the policy was; but</p> <p>10 certainly while the time I was there, we made sure that</p> <p>11 it was equitably available to faculty members -- all</p> <p>12 faculty members.</p> <p>13 Q. Equally available?</p> <p>14 A. Well, okay. I'll use the word "equitably."</p> <p>15 As we make decisions on personnel, I think about equity.</p> <p>16 Q. Okay. So you would look at more than just the</p> <p>17 gender of the recipient; you would look at the impacts</p> <p>18 that it would have on the various genders?</p> <p>19 MR. DOWER: Objection, form.</p> <p>20 A. Is that question in regards to the stop-the-</p> <p>21 clock policy or just in general?</p> <p>22 Q. (BY MR. NOTZON) Stop-the-clock policy.</p> <p>23 A. We felt the equity consideration was that it</p> <p>24 was available to faculty, whatever their gender is, and</p> <p>25 was available to faculty whether they were giving birth</p>	<p>20</p> <p>1 in looking at equities, did you look beyond just the</p> <p>2 equal application between men and women and look at the</p> <p>3 impacts on men and women and whether or not they were</p> <p>4 different in terms of equities?</p> <p>5 A. I don't recall we ever conducted that type of</p> <p>6 study.</p> <p>7 Q. Okay. Do you understand that women, when</p> <p>8 pregnant, have physiological concerns and requirements</p> <p>9 that men do not have?</p> <p>10 A. Yes.</p> <p>11 Q. Do you understand that when caring for</p> <p>12 children, like breast feeding and other concerns, that</p> <p>13 women have different requirements than men have?</p> <p>14 A. Yes.</p> <p>15 Q. Do you understand that after giving birth,</p> <p>16 there's psychological concerns, most commonly, as an</p> <p>17 example, referred to as postpartum depression, that</p> <p>18 women have that men don't have?</p> <p>19 A. Yes.</p> <p>20 Q. Do you understand that there are socially-</p> <p>21 engrained differences in the roles and duties of men and</p> <p>22 women in childrearing that continue to persist in</p> <p>23 society compared between men and women?</p> <p>24 A. I'm generally aware of that.</p> <p>25 Q. Okay. Given all those factors, do you</p>
<p>19</p> <p>1 or adopting. That was the equity consideration.</p> <p>2 Q. All right. Did you look at whether or not the</p> <p>3 policy was equitably enjoyed by both male and female</p> <p>4 faculty members?</p> <p>5 MR. DOWER: Objection to form.</p> <p>6 A. I can't recall we ever did a study of it.</p> <p>7 Q. (BY MR. NOTZON) Did you ever hear concerns</p> <p>8 that the equities of the stop-the-clock policy, when</p> <p>9 applied both to male and female faculty, benefitted the</p> <p>10 male faculty more than the female faculty?</p> <p>11 A. I never -- I never heard anything -- I can't</p> <p>12 recall that.</p> <p>13 Q. Okay. Do you understand when considering</p> <p>14 equity, you look at not just whether the gender is</p> <p>15 transferable between the situations; but you also look</p> <p>16 at the actual impacts on the different protected</p> <p>17 classes?</p> <p>18 A. I think this -- this was viewed as a benefit</p> <p>19 to faculty, to make an accommodation for childbearing;</p> <p>20 and we wanted to make sure that it was available to all</p> <p>21 faculty who had childbearing responsibilities.</p> <p>22 MR. NOTZON: Object as nonresponsive.</p> <p>23 Q. (BY MR. NOTZON) What I'm trying to ask,</p> <p>24 Dr. Fenves, is: I understand that answer goes to</p> <p>25 applying the policy equally between men and women; but</p>	<p>21</p> <p>1 understand that the equities of applying the stop-the-</p> <p>2 clock policy would be more beneficial to men who don't</p> <p>3 have all those extra requirements than they are for</p> <p>4 women?</p> <p>5 A. Well, for women there is maternity leave. So</p> <p>6 that's a benefit only accessible to women, and so I'm --</p> <p>7 could you repeat the question?</p> <p>8 Q. Sure. We're really talking about the stop-</p> <p>9 the-clock policy --</p> <p>10 A. Right.</p> <p>11 Q. -- how that helps or relatively helps, in</p> <p>12 equitable terms, men and women faculty members during</p> <p>13 the six-year probation. And so the question is: Do you</p> <p>14 understand that women might not have the same level --</p> <p>15 well, might have less equitable enjoyment or benefits</p> <p>16 from the stop-the-clock policy than men because women</p> <p>17 are actually experiencing all of the possible negatives</p> <p>18 that we already went through of actually going through</p> <p>19 the birthing and giving birth and rearing children, that</p> <p>20 men don't, while they're having their probationary</p> <p>21 extension?</p> <p>22 A. I -- I can't speak to the specific impacts</p> <p>23 on -- on faculty.</p> <p>24 Q. And that's because you're not aware -- you</p> <p>25 didn't do any studies; and you're not aware of UT doing</p>



<p style="text-align: right;">22</p> <p>1 any studies on that issue, correct?</p> <p>2 A. Correct.</p> <p>3 Q. Despite the fact that all of the things we</p> <p>4 went through about women having those issues with</p> <p>5 pregnancy, birth, and childrearing were all known to you</p> <p>6 and to UT during the time that you were the president</p> <p>7 and prior to that?</p> <p>8 A. Well, we did not -- I can't recall it being --</p> <p>9 I can't recall it being studied nor do I recall it ever</p> <p>10 being raised as an issue in faculty promotion cases.</p> <p>11 MR. NOTZON: Object as nonresponsive.</p> <p>12 Q. (BY MR. NOTZON) My question is: You</p> <p>13 understand it wasn't studied; but you also understand</p> <p>14 that all of those issues we went through, listing what</p> <p>15 women go through that men don't in terms of childcare,</p> <p>16 were known, notorious as it were, to you and to UT</p> <p>17 during that period of time?</p> <p>18 MR. DOWER: Objection, form.</p> <p>19 A. We did not -- it was never raised as an issue,</p> <p>20 and we did not conduct a study on it.</p> <p>21 MR. NOTZON: I didn't -- object as</p> <p>22 nonresponsive.</p> <p>23 Q. (BY MR. NOTZON) I didn't ask if it was raised</p> <p>24 as an issue in this question. I'm asking that a study</p> <p>25 wasn't done even though those were known issues?</p>	<p style="text-align: right;">24</p> <p>1 of academia?</p> <p>2 A. We -- yes, we regularly look at what peer-</p> <p>3 comparable universities are doing.</p> <p>4 Q. And that's how UT came to have the stop-the-</p> <p>5 clock policy, correct?</p> <p>6 A. In part, yes.</p> <p>7 Q. And that's how UT went to an additional second</p> <p>8 year?</p> <p>9 A. In part, yes.</p> <p>10 Q. Okay. And the way that you and other</p> <p>11 universities go about doing that is keeping your finger</p> <p>12 on the pulse of studies that are happening and being</p> <p>13 conducted around the country and around the world?</p> <p>14 MR. DOWER: Objection, form.</p> <p>15 A. I can't speak to what other universities are</p> <p>16 doing.</p> <p>17 Q. (BY MR. NOTZON) Speak to what you do then.</p> <p>18 A. We are -- we keep aware of what our peer</p> <p>19 universities are doing, and my recollection is that</p> <p>20 other universities with stop-the-clock policies were</p> <p>21 applied to males and females.</p> <p>22 Q. And is it your testimony that there were no</p> <p>23 studies that were conducted at any time prior to you</p> <p>24 leaving UT that looked into the lack of equity or the</p> <p>25 disparity of equity between men and women in the stop-</p>
<p style="text-align: right;">23</p> <p>1 MR. DOWER: Objection, form.</p> <p>2 A. A study was not done. It was not raised as an</p> <p>3 issue for either among the faculty or among the</p> <p>4 administration.</p> <p>5 Q. (BY MR. NOTZON) Well, let me ask it a</p> <p>6 different way then. I still don't think you're</p> <p>7 answering my question.</p> <p>8 Would it be accurate that -- well, are</p> <p>9 you denying knowing all the things we went through that</p> <p>10 women go through in birth and childcare during the time</p> <p>11 that you were president and before that?</p> <p>12 A. I -- so I'm not denying I knew it as -- as</p> <p>13 dean, provost, and president. It was never raised as an</p> <p>14 issue, that it got to me, that it needed to be</p> <p>15 addressed.</p> <p>16 Q. Okay. As you sit here and think about it now,</p> <p>17 do you think that would be a good idea, to look at the</p> <p>18 equities of that policy as it applies to males and</p> <p>19 females and whether or not it's an actual equitable</p> <p>20 policy so that both women and men enjoy the benefit</p> <p>21 equitably?</p> <p>22 A. I can't say that now because, again, it had</p> <p>23 never been raised as an issue; and so I can't say that.</p> <p>24 Q. Is part of your role as president and an</p> <p>25 administrator to be aware of best practices in the field</p>	<p style="text-align: right;">25</p> <p>1 the-clock policy?</p> <p>2 MR. DOWER: Objection, form.</p> <p>3 A. Sitting here today, I cannot recall any -- any</p> <p>4 studies.</p> <p>5 Q. (BY MR. NOTZON) Okay. Because, just because</p> <p>6 or just -- if no particular faculty member complained or</p> <p>7 raised the issue of a lack of equity or a potential</p> <p>8 negative impact on women that men don't have in the</p> <p>9 stop-the-clock policy, that wouldn't be the end of the</p> <p>10 inquiry for UT; they would also want to keep in mind</p> <p>11 what is going on in studies that are being done across</p> <p>12 the world, correct?</p> <p>13 A. That's a very general question. We would</p> <p>14 generally want to be aware of what's happening. There</p> <p>15 have been a lot of studies on gender equity at UT</p> <p>16 related to many factors -- a number of factors. This</p> <p>17 factor was never raised through faculty committees</p> <p>18 through the Gender Equity Council as an issue.</p> <p>19 Q. Okay.</p> <p>20 A. That I'm aware of.</p> <p>21 (Faint background speaking.)</p> <p>22 MR. NOTZON: And I apologize that there</p> <p>23 was -- my phone's answering machine, was that audible to</p> <p>24 you guys?</p> <p>25 MR. DOWER: Yeah.</p>

<p style="text-align: right;">26</p> <p>1 MR. NOTZON: Sorry. Let me try to change 2 that. 3 (Momentary pause.) 4 Q. (BY MR. NOTZON) On the gender equity studies 5 that you did or that you're aware of, Dr. Fennes, were 6 those conducted while you were the dean, the provost, 7 the president or all of the above? 8 A. All of the above. 9 Q. Okay. Were you responsible for the -- those 10 gender equity studies being done? 11 A. So once I became provost, most of that work 12 was done in the Office of the Provost. 13 Q. Okay. And those would have been university 14 wide? 15 A. Correct. 16 Q. Okay. Were they -- so they weren't done prior 17 to you being provost? 18 A. No, they were done. In fact, soon after I got 19 there as dean -- I can't remember if it was 2008; it was 20 probably 2009 -- there was a major report on gender 21 equity at UT. And I remember I spoke with a panel that 22 we had for faculty about it. 23 Q. Okay. So prior to that time, there hadn't 24 been any gender studies that you're aware of? 25 A. I can't speak to what happened prior to 2008.</p>	<p style="text-align: right;">28</p> <p>1 recruitment of engineering facul- -- women faculty in 2 engineering. They had been severely underrepresented; 3 and I think we made good progress, which continued after 4 I was dean. And that is still work to be done. 5 Q. Okay. And then back to my question: Were 6 there any areas that persisted to be disparate that 7 weren't improving during that period of time? 8 A. I don't recall any. 9 Q. What about retention and promotion? 10 A. So we paid a lot of attention to retention, 11 especially for faculty that were underrepresented, 12 including women. Rates of promotion, I don't recall if 13 there was any -- again, this is going back a number of 14 years. I don't recall that there was any concern about 15 rates of promotion. 16 Q. Okay. If -- did -- do you recall that the 17 studies were showing that the rates of promotion for men 18 and women were about the same? 19 A. I -- I can't recall. 20 Q. Okay. And when I say "promotion," I'm 21 specifically talking about from tenure track to tenure. 22 A. Yeah, I can't -- I don't recall. 23 Q. Okay. And the -- the historic existence of 24 gender inequity in engineering was known to you and 25 experienced by you; is that correct?</p>
<p style="text-align: right;">27</p> <p>1 Q. Okay. So part of the study that was done that 2 you first were aware of at UT didn't reference the 3 successes or the trends from prior studies? 4 A. This was in 2008 or 2009. I don't recall. 5 Q. Okay. And did you -- from the time that you 6 got there in 2008 until the time that you left in 2020, 7 did you see any progress in the gender equity issues? 8 A. Yes. 9 Q. And let's -- let's focus on engineering and 10 not the university as a whole. Do you have any -- did 11 you witness any benefits to gender equity issues in 12 engineering? 13 A. Yes. 14 Q. And what benefits did you see? 15 A. Reducing inequities in salary, appointing 16 women faculty to endowed chair positions, and appointing 17 women to leadership roles within the College of 18 Engineering. 19 Q. And were there any persistent disparities that 20 had not been successfully altered? 21 A. Well, the long-term trend was to -- I'm sorry? 22 Q. Still focusing just on engineering. 23 A. Engineering, yes, on engineering. So the 24 other -- well, I did leave one out, an important thing. 25 We significantly increased, while I was dean, the</p>	<p style="text-align: right;">29</p> <p>1 A. That is correct. 2 Q. Did you do any studies or focus on any studies 3 related to gender inequities in engineering when you 4 were the dean? 5 A. So as part of the gender equity report that 6 came out in 2009, we -- this is my recollection sitting 7 here now, nearly 12 years later -- part of that action 8 was to conduct studies on salary equity, which I recall 9 we did, and addressed where there were inequities in 10 salary; and that was the primary study that I'm certain 11 we undertook at that time. 12 Q. Okay. Would you agree that at the time you 13 left UT, that there was still disparities, even though 14 you recall that there were decreased disparities over 15 the period of time from 2008 to 2020? 16 MR. DOWER: Objection, form. 17 A. No, I don't agree with that. 18 Q. (BY MR. NOTZON) So there's no more disparity 19 between men and women in engineering salaries? 20 A. So -- so I can't speak to what the exact state 21 is; but as president and the provost under -- that 22 worked for me, we formed -- I can't remember the exact 23 name. Gender Equity Council was the term I generally 24 used. They did a very thorough statistic salary [sic.] 25 The University broke it down by schools, and my general</p>

<p>30</p> <p>1 recollection of that conclusion is that -- that  2 assistant professor and associate professor ranks,  3 that -- statistically, that we had substantially  4 eliminated salary inequities; and that is my  5 recollection at this time.  6 Q. Okay. What about in the numbers of faculty  7 being hired, was that inequity or disparity eliminated  8 in engineering?  9 A. Well, engineering -- well, it depends on how  10 you define "equity in hiring." The percentage of women  11 faculty that were hired, like I said, while I was dean,  12 increased substantially compared to the previous  13 five-year period before I was dean. And I believe the  14 current dean and the department leaders have continued  15 to make progress; but across the school, it's not 50/50.  16 Q. Okay. So that has not been eliminated?  17 A. There are still -- the distribution is still  18 not 50/50.  19 Q. Okay. And that would -- that would carry on  20 through the promotion to tenure because if you're not in  21 the door, you can't get to tenure until you get in the  22 door, correct?  23 A. I'd like to clarify your question. What would  24 carry on?  25 Q. The lack of 50/50, the disparity that, still,</p>	<p>32</p> <p>1 A. So recruitment, we had substantial changes in  2 the faculty search process while I was dean.  3 Q. How did that work?  4 A. Well, it was -- it was several points. First  5 of all, the position -- when there was an authorization  6 to a department to recruit, it had to be based on a  7 position description that was broad enough that it would  8 be attractive to a wider range of candidates so that we  9 would be looking at a larger pool.  10 The second is that we had requirements on  11 diverse representation within the search committee. We  12 had required training search committee chairs on  13 unconscious bias in the search process. We had some  14 expectations of proactive recruitment for faculty who  15 were traditionally underrepresented in engineering,  16 including women.  17 Then we had a requirement that the --  18 typically the Departments would propose three finalists,  19 faculty candidates, for a position. Those had to be  20 approved by the Dean's Office; and there was a  21 requirement that one -- at least one of the three be an  22 underrepresented -- a qualified, competitive candidate  23 who has been traditionally underrepresented in  24 engineering, including women, unless there was a well-  25 justified extenuating circumstance.</p>
<p>31</p> <p>1 there's more men than women that are present being  2 hired; and, therefore, there's got to be more men than  3 women making it to tenure?  4 A. That's correct.  5 Q. And even if the promotion rate of going from  6 assistant to associate, from tenure track to tenure, for  7 men and the same percentage for women, because the  8 number of men is higher, the number of promoted men will  9 be higher than the number of promoted women, correct?  10 A. Correct.  11 Q. Would you agree that UT, while you were the  12 dean and the provost and the president, that you, as an  13 administrator, had a duty to try to work on and  14 eliminate the gender disparities in the engineering  15 faculty?  16 A. I believe we had a duty, and we made progress  17 in the gender equity issues that were identified through  18 the processes that we had.  19 Q. Okay. And what efforts did you make to reduce  20 the disparities besides conducting these studies to see  21 how you were doing?  22 A. Well, it depends on which disparity that  23 you're asking about.  24 Q. Let's talk about recruitment, salary, and  25 promotion.</p>	<p>33</p> <p>1 And so the result of that, while I was  2 dean -- I don't have the exact statistics in front of  3 me -- the percentage of women who were hired as  4 assistant professors was significantly greater than --  5 over a five-year period than the previous five years  6 before I became dean.  7 Q. And I think I understand you actually were the  8 dean when Dr. Nikolova was hired?  9 A. That's my understanding. I don't recall her  10 hiring, but we hired a lot of faculty. I don't recall  11 her specifically being hired.  12 Q. Okay. Do you recall that she came from A&amp;M?  13 A. Well, I know that now.  14 Q. Okay.  15 A. I don't recall if I knew it at the time.  16 Certainly, if I -- so, typically, I didn't always; but I  17 did interview all faculty candidates if the schedule  18 permitted. I can't recall if I interviewed her; but I  19 certainly -- if I had, I certainly would have seen her  20 CV at the time I interviewed her and seen her record.  21 Q. Okay. And so, sitting here today, you don't  22 recall if you interviewed her or you don't recall the --  23 and salary negotiations, anything like that, any of  24 those details?  25 A. Those are two different things. So I don't</p>

<p>34</p> <p>1 recall interviewing her. I would not have been involved 2 in the salary negotiations. 3 Q. Oh, okay. Who would be doing that? 4 A. That's primarily the department chair who 5 negotiates the salary and gets approval by the associate 6 dean. 7 Q. And who was the associate dean in 2013? 8 A. That would be Dr. Jerry Speitel. 9 Q. Okay. So he's been the associate dean for a 10 while? 11 A. I appointed him as associate dean when I came 12 in as dean in 2008. 13 Q. Okay. What was he doing before that? 14 A. He was the Chair of the Department of Civil, 15 Architectural and Environmental Engineering. 16 Q. Okay. Did you know him from your time back in 17 the Eighties? 18 A. Well, it was 20 years earlier. We were all 19 younger then, so I knew who he was; but I didn't know 20 him. 21 Q. Okay. Did -- did he apply for a job; or did 22 you go out and select him? 23 A. I -- well, that's an interesting question. 24 The short answer is I selected him. 25 Q. Okay. And why'd you choose him over anyone</p>	<p>36</p> <p>1 versus just going ahead and not having to ask A&amp;M for 2 permission for a spring start? 3 A. So I'm not aware there is a specific agreement 4 between public universities in Texas. There has been a 5 general understanding among AAU universities, American 6 Association of Universities, of that type of 7 notification. 8 Q. Because you don't want to leave somebody in 9 the lurch? 10 A. It's just generally a courtesy because you 11 plan -- by late spring you've already staffed courses 12 and planned curriculum; and, yes, so to try to have a 13 smooth transition between two -- two AAU universities. 14 Q. And from your memory, the decision of whether 15 to ask for clearance for a fall start would be on the 16 department chair? So for instance -- 17 A. So that -- so I do not know the answer to 18 that. I don't remember ever requesting it myself as 19 dean, provost, or president. So it may -- I do not know 20 if that was -- notification was done by the department 21 chair or the associate dean. 22 Q. Okay. 23 A. Now, it's possible the associate dean would 24 write a letter and I would just sign off on it; but I 25 have no recollection of that.</p>
<p>35</p> <p>1 else? 2 A. I was actually -- before coming to UT as dean, 3 I was in Japan -- Kyoto, Japan and the associate dean 4 who had held the position had -- was leaving to take on 5 a dean position at another university and so I needed to 6 quickly find an associate dean. And so I talked to a 7 lot of people, got their recommendations; and there was 8 very strong consensus that Dr. Speitel, as a department 9 chair, was very highly regarded. And so I asked him to 10 be associate dean. 11 Q. Okay. And he carried on being an associate 12 dean after you became the provost and the president, 13 correct? 14 A. Yes. As far as I know, he's still the 15 associate dean. 16 Q. Okay. What about the decision of when the 17 faculty, specifically Dr. Nikolova, when she would 18 start, either for the Fall Semester or the next January? 19 A. I would not have been involved in that 20 decision. That would be a negotiation with the 21 department chair. 22 Q. Okay. And you're aware of the requirement 23 between state universities that if the hiring decision's 24 made after, I think, May 1st, that there needs to be a 25 request made to A&amp;M to approve starting in the fall</p>	<p>37</p> <p>1 Q. Okay. And the practical effect -- to revisit 2 what we had talked about earlier -- if the faculty 3 member comes in in January, instead of the fall, they 4 will lose that year in their probationary clock at UT? 5 A. So I -- I'll answer the question as follows: 6 That year will not be included in the probationary 7 clock. And that is generally viewed as a benefit 8 because they're able to start their career at UT without 9 it counting towards the probationary clock. 10 Q. It could go both ways, depending on several 11 factors, correct? 12 A. Again, it's generally viewed by faculty that 13 if a time at UT doesn't count towards the clock, that's 14 beneficial. 15 Q. So is it your testimony that most assistant 16 professors prefer to go up for tenure at the latest 17 possible time instead of the earliest possible time? 18 A. My testimony is that when a faculty member is 19 coming new to the University, if they don't have to 20 count that first year as the -- on the probationary -- 21 the first half year on the probationary clock, that is 22 generally viewed as a benefit, to give them options 23 later in the future. 24 Q. Okay. You understand that not everybody has 25 that opinion?</p>

<p style="text-align: right;">38</p> <p>1 A. I can't -- as I said, that's my general 2 understanding of how it is viewed. 3 Q. Okay. Are you aware of anyone that has a 4 different opinion, that that would actually be a 5 detriment and not a benefit? 6 A. I'm not aware of anybody other -- I'm not 7 aware of anybody who had asked to count time towards the 8 probationary clock. 9 Q. Are you aware of any circumstances where 10 someone might view that as a detriment instead of a 11 benefit? 12 A. I -- I haven't thought about it. I can't 13 answer the question. 14 Q. You do know that many assistant professors 15 choose to go up before their six years at UT have been 16 met? 17 A. So the decision about submitting a case for a 18 promotion is not a faculty member's decision. It is the 19 Department Chair's decision about whether to prepare a 20 case, with advice of their Budget Council or Executive 21 Committee. 22 Q. Wouldn't it be true that no faculty member's 23 case would be presented for promotion without the 24 faculty member being behind that decision? 25 MR. DOWER: I don't know whether the</p>	<p style="text-align: right;">40</p> <p>1 Let's go ahead and take a short break and -- yeah, so if 2 that's okay with y'all. 3 MR. DOWER: It's fine with me. 4 THE REPORTER: We're going off the record 5 at 10:04 a.m. 6 (Off the record from 10:04 to 10:13 a.m.) 7 THE REPORTER: We're going back on the 8 record at 10:13 a.m. 9 Q (BY MR. NOTZON) Okay. Dr. Fenves, just a 10 quick followup from a prior question. One of the things 11 you mentioned was the benefits of starting in the spring 12 semester and having that first year -- that first 13 semester not count towards the probationary time would 14 provide the faculty member with options. What kind of 15 options do you see that providing a faculty member? 16 A. Well, to the most -- what I think it's 17 important to understand is that the six-year 18 probationary period, if that's fully used and a 19 promotion case is submitted, it's what we call 20 informally -- I don't recall; I don't think it's in 21 policy -- but it's called informally the "up-or-out 22 year." 23 So there's only two decisions that are 24 possible: Promote to associate professor with tenure or 25 terminal appointment, which means that they will not be</p>
<p style="text-align: right;">39</p> <p>1 audio caught that. Could you repeat that answer? 2 A. That is correct. 3 MR. DOWER: Thank you. 4 Sorry, Robert. 5 MR. NOTZON: No. Thank you for 6 protecting the record. 7 Q (BY MR. NOTZON) So back to the question, 8 you're aware that there are multiple assistant 9 professors that prefer to go up sooner than later? 10 A. Yes. 11 Q. And, therefore, losing a year would be a 12 detriment to those individuals and not a benefit, 13 correct? 14 A. I don't see it that way; but if the Department 15 Chair and the Budget Council or Executive Committee 16 feels it is ready for promotion and meets the standards, 17 that -- I'm not -- I don't view it as a detriment. 18 Q. I understand, but I'm not asking what you view 19 it as. I'm asking if you understand that there are 20 people and circumstances that would cause them to view 21 losing the year as a detriment to their career? 22 MR. DOWER: Objection, form. 23 A. I can't -- I can't speculate on how faculty 24 view it. 25 MR. NOTZON: It's been about an hour.</p>	<p style="text-align: right;">41</p> <p>1 promoted and they have a one-year terminal appointment 2 before they have to leave the university. So that -- 3 you know, most faculty that have -- would rather not 4 have that terminal -- that up-and-out-year consideration 5 -- or make a decision about whether they want to acquire 6 the record sufficient for promotion and go all the way 7 to the end of the probationary period or they have made 8 the case that meets the standards and answers the 9 question "why now" if it's an early promotion and have 10 that ability to do it, thus, sooner. 11 The advantage, the benefit -- the reason 12 I call it "benefit" is that if it's an early promotion 13 under the UT Austin rules, there are three decisions 14 that are possible: Promote to associate professor with 15 tenure, terminal appointment -- and I can't recall ever 16 an early promotion having a terminal appointment -- and 17 the third is do not promote, which is not make a 18 decision now, without prejudice, and review the case 19 later in the probationary period. 20 Q. And is there a different standard if you go up 21 early versus going up at the sixth year? 22 A. So the question about early promotion is we 23 ask the department chairs and the deans to explain "why 24 now," why is the case ripe for making this decision 25 before the end of the probationary period.</p>

<p style="text-align: right;">42</p> <p>1 Q. And so the standard you're talking about there</p> <p>2 is the standard to explain "why now"?</p> <p>3 A. Right.</p> <p>4 Q. Not the standard for qualifying for tenure?</p> <p>5 A. The question is: Why now? Why should we</p> <p>6 consider the case now? Explain it, and justify it.</p> <p>7 Q. Yeah. I'm just trying to get the answer,</p> <p>8 though. When you say "the standard," it's not relating</p> <p>9 to the qualifications of the professor's teaching,</p> <p>10 research, service, et cetera?</p> <p>11 A. And so we're asking, you know: Given the</p> <p>12 record in teaching, research, service, awards -- all the</p> <p>13 categories that we look at in a promotion case -- why is</p> <p>14 this case ripe for making an affirmative decision to</p> <p>15 promote at this time? Whereas, on an up-and-out year,</p> <p>16 we don't ask, "Why should we be considering it now?" We</p> <p>17 have to consider it now.</p> <p>18 Q. So in explaining why early, some of the</p> <p>19 factors could be their qualifications as a faculty</p> <p>20 member?</p> <p>21 A. Let me rephrase. The only factors we look at</p> <p>22 are their qualifications of the faculty member in any</p> <p>23 promotion case.</p> <p>24 Q. I think we may be talking across purposes. So</p> <p>25 there's the question of to tenure or not tenure; and</p>	<p style="text-align: right;">44</p> <p>1 A. So we have three choices: Promote, terminal</p> <p>2 appointment -- which means, you know, that's the end of</p> <p>3 their assistant professor appointment at UT -- or do not</p> <p>4 promote at this time, without prejudice; and so this is</p> <p>5 all related to how we answer that question for if it's</p> <p>6 an early promotion, if it's going up before the full</p> <p>7 probationary period. Our practice -- and it was that</p> <p>8 way when I came as a dean in 2008 -- is to answer and</p> <p>9 justify the question why we should consider it now; what</p> <p>10 is it about the teaching, research, the service, and the</p> <p>11 awards that we should consider the promotion decision</p> <p>12 before the end of the probationary period.</p> <p>13 Q. So does that mean that there is a different</p> <p>14 standard for an early promotion versus one that occurs</p> <p>15 at the up-or-out year?</p> <p>16 A. So I disagree there's a different standard.</p> <p>17 We have an expectation of what faculty should</p> <p>18 accomplish. It depends on the field, the discipline,</p> <p>19 and the department. Faculty have a progression as they</p> <p>20 are proceeding in their career; and if it is just -- if</p> <p>21 it is normal progress in their career, that's, alone,</p> <p>22 not justification for an early promotion. There has to</p> <p>23 be something that is beyond what we would expect the</p> <p>24 normal process -- the normal progress in their career</p> <p>25 prior to the full probationary period.</p>
<p style="text-align: right;">43</p> <p>1 that would be where the faculty member's qualifications</p> <p>2 in all the categories, teaching, research, service,</p> <p>3 et cetera, are reviewed, correct?</p> <p>4 A. That's correct.</p> <p>5 Q. I'm asking about the "do we review the person</p> <p>6 early, the explain-why-now review." Is it -- is that a</p> <p>7 separate request from whether to tenure, or is why</p> <p>8 tenure -- why consider for tenure now, also -- well,</p> <p>9 it's the same question?</p> <p>10 A. Okay. So the question we ask, why now, is</p> <p>11 given the record of the faculty member in teaching,</p> <p>12 research, service categories that we look at, why should</p> <p>13 we consider the question of tenure at this point, as</p> <p>14 opposed to considering the case when the full</p> <p>15 probationary period has been used.</p> <p>16 Q. So you -- it's all part of the same question</p> <p>17 about tenure, whether or not to tenure the person?</p> <p>18 A. Yes.</p> <p>19 Q. So the explanation for "why early review" is</p> <p>20 not a separate question from the tenure-or-not-tenure</p> <p>21 decision?</p> <p>22 A. I'm trying to understand the question. The</p> <p>23 review is: Do we -- if it's early -- we're talking</p> <p>24 about early cases; is that correct?</p> <p>25 Q. Yes, sir.</p>	<p style="text-align: right;">45</p> <p>1 Q. I guess let me ask it a different way. If,</p> <p>2 in year five, they are at the level of promotable</p> <p>3 standards -- if it had been their sixth year, but they</p> <p>4 have reached that standard at year five, then that's</p> <p>5 sufficient for promotion?</p> <p>6 A. Not necessarily. In fact, if the -- if a dean</p> <p>7 recommends a candidate for promotion in five years and</p> <p>8 says -- and they get promoted next year, we don't find</p> <p>9 that a compelling case for why now.</p> <p>10 Q. I didn't understand that answer. I didn't say</p> <p>11 that they'd be on track to meet promotion standards next</p> <p>12 year, that they are -- they meet the standards now.</p> <p>13 A. So that...</p> <p>14 Q. Would that be sufficient?</p> <p>15 A. If they felt that they met the standards --</p> <p>16 let me rephrase that, that answer.</p> <p>17 They have to answer the question: Why</p> <p>18 are we considering promotion in the fifth year. If the</p> <p>19 answer is that they have fulfilled what we expect a</p> <p>20 professor in a normal probationary period over a six-</p> <p>21 year period to have fulfilled, exceeded, then, yes, we</p> <p>22 will consider an early promotion.</p> <p>23 Q. So if they go up at year four, instead of year</p> <p>24 five or six, does that mean that the level that they</p> <p>25 must meet should explain that they are -- they have met</p>



<p style="text-align: right;">46</p> <p>1 the six-year requirements in four years?</p> <p>2 A. That's correct. We have an expectation,</p> <p>3 depending on the department and the field, in teaching</p> <p>4 and research -- those are the two most important</p> <p>5 categories -- but also service and significant awards;</p> <p>6 and if they have acquired -- made those accomplishments,</p> <p>7 I should say, in a shorter period, including four years,</p> <p>8 yes, we would -- that would make -- the dean would have</p> <p>9 to explain that in a compelling way --</p> <p>10 Q. Okay.</p> <p>11 A. -- for it to be considered a case for early</p> <p>12 promotion.</p> <p>13 Q. Are there any other factors other than the</p> <p>14 standard teaching, research, and service that are</p> <p>15 considered for answering the question "why early"?</p> <p>16 A. The only other factor that I can recall ever</p> <p>17 being considered is whether there's a retention issue,</p> <p>18 that they're -- if they have an offer from another</p> <p>19 university and if a dean is -- the department chair</p> <p>20 decision are -- the department chair and the dean are</p> <p>21 making a recommendation that we are at risk of losing</p> <p>22 the faculty member and that their desire is to keep the</p> <p>23 faculty member.</p> <p>24 Q. Okay. What if it's a fear of an offer and not</p> <p>25 an actual offer?</p>	<p style="text-align: right;">48</p> <p>1 performance?</p> <p>2 A. Weak service. You know, we don't have high</p> <p>3 service expectations for assistant professors. Our goal</p> <p>4 is to have them focus on their research, building up</p> <p>5 their research portfolio and funding, getting the papers</p> <p>6 published in top journals, and do quality teaching. So</p> <p>7 we generally have relatively mod- -- low -- I shouldn't</p> <p>8 say "low" -- modest expectations for degree of service.</p> <p>9 So a competing offer is -- if there's a</p> <p>10 hypothetical case with a judgment that there's modest</p> <p>11 service, but outstanding records in the other categories</p> <p>12 and a competing offer from a peer university, yes, would</p> <p>13 outweigh a service record.</p> <p>14 Q. The same question, but let's move it to</p> <p>15 teaching scores.</p> <p>16 A. That's a harder question to answer in general</p> <p>17 because it would depend on the specific facts of what</p> <p>18 the teaching record was.</p> <p>19 Q. Is there some fungibility there?</p> <p>20 A. Could you explain what you mean by</p> <p>21 fungibility?</p> <p>22 Q. Yeah. Can you kind of like give a little</p> <p>23 here, give a little, like, their teaching scores are --</p> <p>24 you know, they're kind of average; they're not great,</p> <p>25 but they're not bad. But, you know, we really want to</p>
<p style="text-align: right;">47</p> <p>1 A. We like to see more than just a fear. I</p> <p>2 can't -- these discussions have -- do come up in early</p> <p>3 promotion cases, and just a concern generally is not --</p> <p>4 is not compelling.</p> <p>5 Q. Also, wouldn't the person's performance in the</p> <p>6 standard categories of teaching, research, service,</p> <p>7 et cetera, wouldn't they actually have to also have met</p> <p>8 the standard on -- on its own?</p> <p>9 A. Yes, they would, correct.</p> <p>10 Q. So the -- the -- you know, the standing offer</p> <p>11 they might take wouldn't -- would have to be in addition</p> <p>12 to meeting the tenure standards?</p> <p>13 A. Well, it would be a factor to consider; and</p> <p>14 again, I can't recall specific cases; but, generally,</p> <p>15 other universities that are trying to recruit UT faculty</p> <p>16 are seeing the same things we're seeing, a stellar</p> <p>17 record, and are trying to recruit them. So they</p> <p>18 generally -- someone that has an offer from a competing,</p> <p>19 top-ranked engineering -- engineering department --</p> <p>20 let's call it "engineering" -- they're seeing the same</p> <p>21 thing we're seeing; and it's their compelling record</p> <p>22 that's making them attractive to be recruited by another</p> <p>23 university.</p> <p>24 Q. Could that factor, having an offer from</p> <p>25 another university, replace, say, a weak service</p>	<p style="text-align: right;">49</p> <p>1 keep this person because they got an offer.</p> <p>2 A. Again, these are holistic evaluations, we're</p> <p>3 looking at all the factors. There's no formula that we</p> <p>4 run the factors through to come up with an answer. So</p> <p>5 it would depend on the specific facts.</p> <p>6 Q. Right. So I take that as a "yes," that the</p> <p>7 holistic idea is there's no bright-line rule?</p> <p>8 A. I will answer that: We do a holistic</p> <p>9 evaluation of the entire record, and there are no --</p> <p>10 there are no hard rules on any one factor.</p> <p>11 Q. Okay. Any other criteria to consider other</p> <p>12 than what you've already testified to in the</p> <p>13 consideration of someone for early tenure?</p> <p>14 A. So I can't recall any other significant</p> <p>15 factors to consider in answering the question why should</p> <p>16 we consider the case now for early promotion.</p> <p>17 Q. Okay. Let me then ask an -- this question:</p> <p>18 What about prior years of assistant professor time at</p> <p>19 another university?</p> <p>20 A. Okay. This is a very common situation. We</p> <p>21 like to recruit the top assistant professors from other</p> <p>22 universities. There are many advantages in doing that.</p> <p>23 And so when we have a early promotion, according to the</p> <p>24 clock, the UT Austin probationary time clock and it's a</p> <p>25 faculty member that has had prior service at a peer</p>



<p>50</p> <p>1 department, a peer university, we certainly look at the 2 whole record in rank as an assistant professor. 3 Q. What if it's not a peer institution? 4 A. If it's not a peer institution, it depends on 5 what the institution is, what the department is, what 6 the area is. So there are some institutions that are 7 not AAU members, which is a significant factor. We're 8 looking at universities that are major research 9 universities; but they may be very fine departments, 10 top-ranked departments. And so we'll look at that as 11 a -- as a factor. 12 But, on the other hand, we'll have some 13 faculty that begin their career in primarily -- at 14 universities that are primarily focused on teaching, 15 have not been able to assemble a research record because 16 that wasn't the focus of their previous position; and so 17 we will generally not give much weight in a situation 18 like that. 19 Q. And, I guess, what's your definition of a peer 20 institution? And you kind of were saying things that 21 indicate what that is. 22 A. Yeah, it's -- again, we have no definition; 23 but indications of a peer institution: The university's 24 a member of the Association of American Universities, 25 AAU. If it's in the field of engineering, it's a top 10</p>	<p>52</p> <p>1 question. So the disparity that we had previously 2 talked about was in the percentage of women faculty, as 3 you -- as you pointed out correctly. The promotion and 4 tenure process doesn't -- doesn't change that. The 5 question is disparity in rates of promotion and success 6 to promotion. Can I ask you if that's your question? 7 Q. Yes, sir. 8 A. Okay. So in -- if are there -- so, first of 9 all, I don't recall we had significant disparities in 10 rates of promotion. Again, this is a number of years 11 ago; but I don't recall it as a significant factor. 12 In terms of promotion for women faculty, 13 we did ask department chairs to make sure that there 14 was -- there was mentoring for underrepresented faculty, 15 particularly women -- including women, I should say -- 16 to help them -- you know, help them understand how to be 17 successful as an assistant professor. 18 Q. Okay. Anything else that you did to try to 19 increase the number of women with tenure at UT in 20 engineering? 21 A. So -- 22 MR. DOWER: Objection, form. 23 A. -- the first step was to recruit more women 24 into engineering. That was the first thing we did. 25 Q. (BY MR. NOTZON) Right. Anything else? So</p>
<p>51</p> <p>1 or top 15 department because that's -- our UT Austin 2 school is in that category. And so those are general 3 indications of what we would consider a peer institution 4 for the purpose of considering the assistant professor 5 record in teaching and primarily research and service in 6 a promotion case at UT Austin. 7 Q. So an institution could be a research 8 institution but not in the top 10 or 15, it would not be 9 considered a peer institution or a peer department? 10 A. It would not be weighted as highly. I mean, 11 this is not a yes/no answer. It depends on the 12 department, it depends on the university, and it also 13 depends on the record. 14 Q. The individual's record? 15 A. The individual's record. 16 Q. Okay. Now, moving on, you gave us the list of 17 things that you recall doing to increase recruitment of 18 underrepresented persons, which would include women, in 19 engineering. 20 Can you tell me what -- in the other 21 category of promotion, what you have done to try to 22 increase the female, specifically, promotion to tenure 23 and to eliminate that disparity that has been 24 experienced in engineering historically? 25 A. Oh, but -- so I'd like to clarify the</p>	<p>53</p> <p>1 recruitment, mentoring? 2 A. Well, my -- my recollection is that it was 3 generally viewed as the stop-the-clock policies, 4 including adding a second year to the stop-the-clock 5 policy. The -- making sure that the stop-the-clock 6 policies were really used and considered in the 7 promotion and tenure process. I think that was 8 generally viewed as positive factors to support the 9 promotion in women faculty. 10 Q. Anything else? 11 A. That's all I can recall at this time. 12 Q. Was there any effort to try to ensure the 13 absence of bias in the promotion process against women? 14 A. I can't recall anything specifically; but we 15 did do unconscious bias training for Search Committee 16 chairs and some departments, I believe, did it for all 17 Search Committee members. We did have an expectation 18 that that was a responsibility of department chairs in 19 their work in promotion-and-tenure decisions to be 20 sensitive to bias in decision-making. 21 Q. I understood from your prior answer about 22 recruitment that the bias -- unconscious bias training 23 of the Search Committee chairs was done; but I'm 24 specifically asking about the promotion part, the 25 promotion review and consideration and decision. So are</p>

<p>54</p> <p>1 there any bias trainings that were implemented for those 2 people? 3 A. I don't -- I don't recall. I don't believe 4 so, but I don't recall. 5 Q. And that would -- so in engineering, the 6 people that sit on the Budget Council in the department 7 that are reviewing faculty members', assistant 8 professors' dossiers for promotion are going to be 9 greatly majority men, correct? 10 A. The Budget Council is composed of all full 11 professors in the department, so that is correct. 12 Q. Right. Because the history would still be 13 present that there's a small number of women compared to 14 men because that's the way the history went? 15 A. Correct. 16 Q. And would that carry on to the College 17 Promotion and Tenure Committee? Would that also be male 18 dominant? 19 A. Well, so that I can't answer. As -- when I 20 was dean, while we appointed -- and now I can't recall 21 the process that the P&amp;T members, committee members were 22 appointed -- I did try to have diversity on the P&amp;T 23 Committee as dean. 24 Q. Okay. So you could add that to your list of 25 things you did to try to eliminate or decrease the</p>	<p>56</p> <p>1 P&amp;T Committee. I can't remember if that was every year. 2 Q. At least one? 3 A. My recollection is at least one. 4 Q. And would your recollection also be it was 5 never half or more? 6 A. That is correct. 7 Q. Okay. Let's go ahead and talk about in your 8 role as president and the President's Committee in the 9 promotion review process. What about that? Did you do 10 anything to try to eliminate bias against women in that 11 committee? 12 A. So the membership of the President's Committee 13 is determined by the handbook of operating procedures, 14 so it's by position, administrative position. So as 15 president, I appointed the first woman provost in the 16 history of the university. So aside from her 17 outstanding accomplishments as a scholar and academic 18 leader, the provost brought -- brought that diversity. 19 And we -- as the President's Committee, we did not do 20 any formal training; but as university leaders, we were 21 all very cognizant of the concerns about unconscious 22 bias. And so we did not do formal training, but we 23 certainly -- each individual was very aware of being -- 24 being concerned and watchful for unconscious bias in the 25 decision-making process leading up to the presentation</p>
<p>55</p> <p>1 potential for bias in the promotion process? 2 A. Yes. 3 Q. "Yes" or "no"? 4 A. Yes. 5 Q. And so that would be you deciding who's going 6 to be on your committee and trying to increase the 7 number of women on the committee, remnant, I guess, in 8 other underrepresented categories? 9 A. I do not recall the process for appointment 10 to the school P&amp;T Committee. I believe they were 11 nominate- -- each department had one representative and 12 I believe they were nominated or selected by department 13 chairs, but I did work with department chairs to make 14 sure that we had some representation of underrepresented 15 faculty in the P&amp;T Committee. 16 Q. So that was a request you made. You couldn't 17 require them to determine who the chair is going to 18 pick? 19 A. It was a request from the dean to the chair, 20 that's correct. 21 Q. Okay. And did that -- did those requests 22 work? Do you recall what your -- the makeup of your P&amp;T 23 Committees were? 24 A. So, again, this is going back to 2013 and 25 earlier. I -- I do recall having -- having women on the</p>	<p>57</p> <p>1 to the University and to the President's Committee in 2 our deliberations. 3 Q. So let me follow up a little bit. How many 4 people are on that committee, the President's Committee? 5 A. So the President's Committee is the President, 6 the Executive Vice President and Provost -- so I guess 7 somebody will have to do the counting -- Executive Vice 8 President and Provost, the Dean of the Graduate School, 9 the Dean of Undergraduate Studies, and the Vice 10 President for Research. 11 Q. Okay. That's five. 12 A. I think I got everybody, five. 13 Q. Okay. And while you were the president, how 14 many of those were women? 15 A. So while I was President, the provost was 16 there -- well, the first year, I had an Interim Provost 17 who was a woman; and then I appointed the permanent 18 Provost. So all five years the Provost was a woman. 19 The Vice President for Research -- so I think that was 20 the only woman on the committee. 21 Q. Okay. And would you agree that simply being 22 a woman does not mandate that there would be no 23 decision -- there would -- just because a person is a 24 woman doesn't mean that they can't or won't discriminate 25 against women?</p>

<p>58</p> <p>1 A. I think as a general proposition that's true.</p> <p>2 Q. Okay. And just to clarify, no one -- as far</p> <p>3 as you're aware, no one on the P&amp;T Committee, the Dean,</p> <p>4 the President, or the members of the President's</p> <p>5 Committee were required to take unconscious bias</p> <p>6 training?</p> <p>7 A. That is my recollection, did not have it as a</p> <p>8 requirement.</p> <p>9 Q. During the time that you were the dean, the</p> <p>10 provost, and the president, do you recall any complaints</p> <p>11 of gender discrimination in your -- in the engineering</p> <p>12 department or the engineering college, besides --</p> <p>13 besides Dr. Nikolova?</p> <p>14 A. Dr. Nikolova. I don't recall anything</p> <p>15 specific, but it's -- there were tenure denials and</p> <p>16 those were often -- those would -- well, I shouldn't say</p> <p>17 often. There would be in some cases a CCAFR report, and</p> <p>18 I can't remember any specifics of those cases. So I</p> <p>19 can't say it didn't happen.</p> <p>20 Q. Okay.</p> <p>21 A. I just can't remember it.</p> <p>22 Q. Do you remember if there were any lawsuits</p> <p>23 regarding gender discrimination or retaliation when --</p> <p>24 stemming from a gender discrimination complaint when you</p> <p>25 were the dean, the provost, or the president?</p>	<p>60</p> <p>1 involvement in that case.</p> <p>2 Q. Okay. Any involvement or alleged involvement,</p> <p>3 let's say?</p> <p>4 A. I don't recall any.</p> <p>5 Q. So the -- the promotion process that you're</p> <p>6 aware of involves the preparation of a dossier, voting</p> <p>7 by the Budget Council at the department level, a</p> <p>8 write-up, an assessment from the Chair, a consideration</p> <p>9 by the P&amp;T Committee for the college, and the Dean</p> <p>10 participating in that -- or being present for that</p> <p>11 discussion, correct?</p> <p>12 A. Correct.</p> <p>13 MR. DOWER: Objection, form.</p> <p>14 Q (BY MR. NOTZON) And then the Dean writing up</p> <p>15 the Dean's assessment, which includes the Dean's</p> <p>16 personal assessment -- or professional assessment and a</p> <p>17 conveyance of what the P&amp;T Committee -- the basis of</p> <p>18 their vote, without calling out names, but providing the</p> <p>19 President and the President's Committee an understanding</p> <p>20 of what the basis of the vote was; is that correct?</p> <p>21 MR. DOWER: Objection, form.</p> <p>22 A. The -- the Dean is expected to convey their</p> <p>23 professional evaluation and recommendation on the case</p> <p>24 and -- informed by the P&amp;T discussion and the P&amp;T vote</p> <p>25 and significant factors that were raised during the P&amp;T</p>
<p>59</p> <p>1 A. There were quite a few lawsuits against the</p> <p>2 university. I can't remember -- I don't recall any</p> <p>3 having to do with the promotion process itself.</p> <p>4 Q. Okay. And gender based?</p> <p>5 A. I don't recall any.</p> <p>6 Q. Do you recall a faculty member named Pigony</p> <p>7 (PHONETICALLY SPELLED)?</p> <p>8 A. The name sounds familiar.</p> <p>9 Q. Do you remember that she had a lawsuit?</p> <p>10 A. I don't remember the -- now that you mention</p> <p>11 it, as I said, I don't -- now, I do remember, yes.</p> <p>12 Q. Okay.</p> <p>13 A. I don't remember the specifics of it.</p> <p>14 Q. Okay. Do you remember that she had a trial?</p> <p>15 A. I don't recall that.</p> <p>16 Q. Do you remember that she -- the jury found</p> <p>17 that UT had retaliated against her?</p> <p>18 MR. DOWER: Objection, form.</p> <p>19 A. I don't recall that.</p> <p>20 Q (BY MR. NOTZON) Okay. Do you recall what</p> <p>21 college she was in?</p> <p>22 A. No.</p> <p>23 Q. Did you have any role to play in that -- in</p> <p>24 the allegations that she was making against UT?</p> <p>25 A. Sitting here today, I don't recall having any</p>	<p>61</p> <p>1 deliberation.</p> <p>2 Q. (BY MR. NOTZON) Okay. And is the Dean</p> <p>3 expected to write those up in the Dean's assessment?</p> <p>4 A. Yes.</p> <p>5 Q. And is the Dean also a participant in the</p> <p>6 discussions of the President's Committee?</p> <p>7 A. So the Dean presents to the President's</p> <p>8 Committee, and there may be questions and discussion.</p> <p>9 So that's -- that's the best way to characterize it.</p> <p>10 Q. Okay. So it could be just the written</p> <p>11 assessment from the Dean or it could be the written</p> <p>12 assessment and a verbal presentation and answering of</p> <p>13 questions?</p> <p>14 A. The answer is yes, and the process that we</p> <p>15 followed did change while I was President.</p> <p>16 Q. And what -- what did it used to be; and what</p> <p>17 did you change it to?</p> <p>18 A. So at the time I was Dean, Provost and the</p> <p>19 time I became President, the Dean was -- would schedule</p> <p>20 a hearing -- I don't know if that's the official word we</p> <p>21 used -- but we scheduled a meeting with the Dean and the</p> <p>22 full President's Committee. And the Dean would then</p> <p>23 present each case one at a time; and then after case,</p> <p>24 we'd have a presentation, discussion, and then generally</p> <p>25 a deliberation among the President's Committee with the</p>

<p style="text-align: right;">62</p> <p>1 Dean present.</p> <p>2 We changed it to a two-step procedure</p> <p>3 that the -- since we had the Dean's recommendations, the</p> <p>4 President's Committee would meet without the Dean to</p> <p>5 determine which cases we could make a decision to</p> <p>6 promote without the presence of the Dean.</p> <p>7 Q. Okay. An efficiency move?</p> <p>8 A. It was an efficiency move, a time so we could</p> <p>9 focus a discussion on the cases where we needed</p> <p>10 discussion, as opposed to spending times on the cases</p> <p>11 where the written record, the dossier, was so clear that</p> <p>12 promotion was warranted. And so then we would notify</p> <p>13 the Dean about which cases they should be prepared to</p> <p>14 discuss. And then we would schedule that second meeting</p> <p>15 for that school with the Dean and go through the same</p> <p>16 procedure, have them present the case; and then there</p> <p>17 would be questions and discussion.</p> <p>18 The second change we made is that we did</p> <p>19 do the deliberations of our discussion at the university</p> <p>20 as the President's Committee without the Dean being</p> <p>21 present.</p> <p>22 Q. Okay. And why did you do it that way? Why</p> <p>23 did you eliminate the Dean's participation from the</p> <p>24 discussion?</p> <p>25 A. We felt we could have more open discussions</p>	<p style="text-align: right;">64</p> <p>1 not promote, then we had a -- there was a thorough</p> <p>2 debrief with the Dean the reasons for that between the</p> <p>3 Provost and -- generally the Provost.</p> <p>4 Q. Did that ever happen while you were president?</p> <p>5 A. Did what ever happen?</p> <p>6 Q. Where the Dean said promote and you said no?</p> <p>7 A. The Dean said promote and I said no. I can --</p> <p>8 I think in my last year as president -- the Dean said</p> <p>9 promote and we said no. So I can't remember a specific</p> <p>10 one, but I -- it happened. I can't remember a specific</p> <p>11 case, but I believe it has happened.</p> <p>12 Q. Do you remember what school that was in?</p> <p>13 A. I don't.</p> <p>14 Q. What college?</p> <p>15 A. I don't. I'd have to -- I'd have to go back</p> <p>16 through the records.</p> <p>17 So I'd like to put a little context. At</p> <p>18 the time I served on the University Committee as Provost</p> <p>19 to President, I reviewed over 800 cases. By the time I</p> <p>20 was President I made decisions on 600 or so, more than</p> <p>21 600 cases; so I'm just not recalling the specifics of</p> <p>22 many -- of cases.</p> <p>23 Q. Okay. And, yeah, just to clarify, as the</p> <p>24 Provost and the President, you would have been on the</p> <p>25 President's Committee in both roles?</p>
<p style="text-align: right;">63</p> <p>1 among the President's Committee without the Dean being</p> <p>2 present after we had heard from the Dean.</p> <p>3 Q. And after the decision is made, isn't the Dean</p> <p>4 responsible for conveying that decision to the</p> <p>5 candidate?</p> <p>6 A. That's correct in all cases.</p> <p>7 Q. And doesn't the Dean not being present reduce</p> <p>8 the effectiveness of the Dean's ability to convey the</p> <p>9 reasons why the candidate -- if promotion to tenure was</p> <p>10 denied, doesn't that inhibit their ability or decrease</p> <p>11 their ability to convey the reasons to the candidate?</p> <p>12 A. No, because what we did is in cases -- there</p> <p>13 are two types of cases in that situation, the first is</p> <p>14 the Dean recommending do not promote or terminal</p> <p>15 appointment; and so in that case, the Committee is</p> <p>16 either -- if we accept that recommendation by the Dean,</p> <p>17 generally the Dean's reasoning -- they're supporting the</p> <p>18 Dean's reasoning for it. If there's any additional</p> <p>19 information beyond that, that was conveyed directly to</p> <p>20 the Dean generally by the Provost but in some cases by</p> <p>21 the Vice Provost for Faculty affairs.</p> <p>22 If the Committee -- the President's</p> <p>23 Committee is overruling the Dean's decision, where the</p> <p>24 Dean is recommending to promote and the University</p> <p>25 Committee, the President's Committee decision is to do</p>	<p style="text-align: right;">65</p> <p>1 A. Correct.</p> <p>2 Q. Okay. And do you recall at any time while you</p> <p>3 were the Provost or the President that the President</p> <p>4 made a decision that was contrary to the remainder of</p> <p>5 the Committee, the President's Committee?</p> <p>6 A. In the policy of the University HOP, the</p> <p>7 President makes the decision. The President's Committee</p> <p>8 is advisory -- the members of the President's Committee</p> <p>9 are advisory to the President. So the Committee, it</p> <p>10 doesn't make a decision; it's the President who makes</p> <p>11 the decision.</p> <p>12 Q. Okay. So altering my question slightly, did</p> <p>13 the President ever make a decision that appeared to run</p> <p>14 counter to the advice of the remainder of the</p> <p>15 President's Committee?</p> <p>16 A. The remainder. Can you clarify what you mean</p> <p>17 by "remainder"?</p> <p>18 Q. The non-presidents.</p> <p>19 A. So the -- my predecessor's practice and my</p> <p>20 practice was to poll each member of the President's</p> <p>21 Committee. These are not votes. I'm polling them on</p> <p>22 their recommendation. They were being polled on their</p> <p>23 recommendation to the President. And they weren't</p> <p>24 always unanimous. Sometimes there was some disagreement</p> <p>25 on whether the case should be promoted or not.</p>

<p>66</p> <p>1 Q. Okay. Then one more time: Did you recall 2 that the President ever decided contrary to the majority 3 of the poll that was taken? 4 A. Yes. 5 Q. Okay. And did you do that as President? 6 A. Yes. 7 Q. And did you do that with the result of tenure 8 being granted and denied or -- or just one or the other? 9 A. So that's a different question. So the -- 10 what I recall in the decision was a decision from 11 promotion to associate professor to professor, where my 12 decision -- 13 Q. That's okay. I don't need to hear about that. 14 Let's just focus on -- 15 A. A tenure decision. 16 Q. Assistant to associate. 17 A. Assistant to associate. I can't recall. 18 Q. Okay. Now, the only -- the President's 19 Committee consideration and decision is the only part of 20 the process that's not written; is that correct? The 21 only part of the promotion to tenure decision that's not 22 written; is that correct? 23 A. Well, there's a written decision; but there is 24 no written minute or record of the basis for that 25 decision.</p>	<p>68</p> <p>1 in 2008, and I never felt that there was a reason to 2 modify the process or the policies. 3 Q. Why not? 4 A. Because my feeling was that it was working -- 5 working well. 6 Q. And what was the benefit of not putting it in 7 writing? 8 A. I don't know if there was a particular 9 benefit. It was working well, and I didn't feel a need 10 to change. 11 Q. Slavery used to work; but it changed, didn't 12 it? 13 MR. DOWER: Objection, form. 14 A. We're talking about personnel decisions of 15 faculty members, and the process seemed to be working 16 well. 17 Q. (BY MR. NOTZON) There used to not be a stop- 18 the-clock policy; but that changed, correct? 19 A. It did, yeah. Yeah. 20 Q. There used to be -- there used to not be a 21 anti-discrimination law; but then there was one, 22 correct? 23 A. Correct, and we made sure we followed the law. 24 Q. So just because that's the way it was done in 25 the past and not putting it in writing doesn't mean</p>
<p>67</p> <p>1 Q. Okay. And there's also no -- well, strike 2 that. 3 And it's -- you understand that not 4 having a written decision allows for -- well, it does 5 not allow for people outside of the process to know what 6 happened historically, correct? 7 A. It does not allow. 8 Q. Does not allow. So because the discussion and 9 the reasoning for the decision is not put in writing, no 10 one can look back on that decision to know the reasoning 11 for that decision with certainty? 12 A. There's no written decision. The reasons for 13 a decision that would be contrary to the Dean's 14 recommendation are conveyed orally to the Dean. 15 Q. And the only way to know what was conveyed to 16 the Dean would be the Dean and the person that told the 17 Dean; but that would not necessarily be the same thing 18 that was discussed in the President's Committee, 19 correct? 20 A. The Provost -- and I think the general 21 practice was the Provost conveyed it to the Dean and 22 relied on the Provost to accurately convey the reasoning 23 of the final decision. 24 Q. Okay. Why not just put that in writing? 25 A. The -- this was the process when I got to UT</p>	<p>69</p> <p>1 that's a reason to keep doing it, correct? 2 A. There was no -- there was no -- there was no 3 reason to consider a change. 4 Q. Is one of the benefits of not putting it in 5 writing that there is some ability to avoid a historical 6 pinning down of the reason? 7 A. I didn't view it that way. I viewed it as a 8 process that was working well, and there wasn't a need 9 for a change. 10 Q. Does it allow for -- not putting it in 11 writing, does it allow for some -- the ability to have a 12 more gray understanding of what the reasonings were? 13 A. I think we -- we had clear understandings 14 among the President's Committee, and the Provost's 15 responsibility was to convey that to the Dean. 16 Q. When you say it was working not to put it in 17 writing, what was the reason for doing it verbally 18 instead of in writing? 19 A. The reasons for -- so this was the process. I 20 don't know when it began, but it certainly was the 21 existing process when I became Dean in 2008. 22 Q. So the -- 23 A. I don't know the original reasons, but that's 24 the procedure that was established. 25 Q. So the only reason that you can provide us</p>

<p style="text-align: right;">70</p> <p>1 today is that's the way it was done?</p> <p>2 A. That's the way it was done, and I didn't see a</p> <p>3 need for a change while I was president.</p> <p>4 Q. Do you see any benefits to not putting it in</p> <p>5 writing?</p> <p>6 A. I -- I don't -- any benefits? I don't --</p> <p>7 it's -- I don't see -- I don't see benefits or</p> <p>8 necessarily a down side. It was a procedure that had</p> <p>9 existed at UT prior to 2008, and I didn't see a need for</p> <p>10 a change while I was president.</p> <p>11 Q. Well, weren't there requests to put it in</p> <p>12 writing that were made repeatedly?</p> <p>13 A. There were requests. I remember it was either</p> <p>14 my last -- either my last year or my second-to-last year</p> <p>15 as president. This was a discussion that came up in one</p> <p>16 of the panels that we would have regularly with the</p> <p>17 University Committee panels with faculty department</p> <p>18 chairs and deans, and it's possible it came up at one of</p> <p>19 the monthly Faculty Council meetings; but I don't</p> <p>20 remember, again, in that timeframe. That was a long</p> <p>21 time, that I recall.</p> <p>22 Q. And was your response the same to them as it</p> <p>23 is to me, that if it ain't broke, don't fix it?</p> <p>24 A. I don't recall the specifics of what I said in</p> <p>25 one or two of those forums, but it probably would have</p>	<p style="text-align: right;">72</p> <p>1 that's a -- that should be the process for any decision</p> <p>2 by a president of a university, what is the best</p> <p>3 interest of the university, to support the roles and</p> <p>4 missions of the university. That's separate whether</p> <p>5 those decisions are in writing or not.</p> <p>6 Q. I agree. So why not put it in writing?</p> <p>7 MR. DOWER: Objection, form.</p> <p>8 A. This is a process that existed prior to 2008,</p> <p>9 and I did not see a need to change the process.</p> <p>10 Q. (BY MR. NOTZON) Does the process of not</p> <p>11 putting the basis for the President's decision in</p> <p>12 writing protect the University from potential liability</p> <p>13 in litigation such as this?</p> <p>14 A. I never consulted with General Counsel on that</p> <p>15 question.</p> <p>16 MR. DOWER: I'm going to instruct the</p> <p>17 witness not to discuss what he did or did not discuss</p> <p>18 with General Counsel, please.</p> <p>19 MR. NOTZON: Well, he can say he didn't,</p> <p>20 so that's not a problem.</p> <p>21 Q. (BY MR. NOTZON) But -- but your attorney is</p> <p>22 accurate. I'm not asking if you did have a conversation</p> <p>23 with an attorney, getting legal advice. I'm not asking</p> <p>24 what that was, and you shouldn't be talking about that.</p> <p>25 Okay. So moving on, whether you talked</p>
<p style="text-align: right;">71</p> <p>1 been essentially that. I do remember that one of the --</p> <p>2 this was probably in the panel session -- somebody</p> <p>3 making -- a faculty member making a statement,</p> <p>4 "Everything is written up to the University Committee</p> <p>5 why isn't the University Committee documenting it?"</p> <p>6 And I said, "Everything up to the</p> <p>7 University Committee is advisory to the President, and</p> <p>8 the President needs that written advice and analysis."</p> <p>9 It's not a reciprocal requirement that the President</p> <p>10 explain in writing because we explain orally to the Dean</p> <p>11 if there's a -- if there's a negative decision.</p> <p>12 Q. It's good to be the king?</p> <p>13 MR. DOWER: Objection, form.</p> <p>14 A. The President is not the king.</p> <p>15 Q. (BY MR. NOTZON) In a sense -- you're saying</p> <p>16 it's not reciprocal, you know, that the President gets</p> <p>17 to not have to put anything in writing?</p> <p>18 A. There are decisions the President makes that</p> <p>19 are put in writing. I convey them. I convey them</p> <p>20 orally, without a written -- written reason.</p> <p>21 Q. And that's because the President -- from your</p> <p>22 experience, the President views everything in a holistic</p> <p>23 way and -- taking all things into consideration and</p> <p>24 decides what's the best result for the university?</p> <p>25 A. Well, that -- so to answer your question,</p>	<p style="text-align: right;">73</p> <p>1 to the attorney or not, I'm asking you whether you see</p> <p>2 that as protection of the University from liability.</p> <p>3 A. I don't have the professional ability to</p> <p>4 assess legal liability. So this was a process that</p> <p>5 existed prior to 2008, and I did not see a need to</p> <p>6 change it.</p> <p>7 Q. Well, I don't know that it's rocket science to</p> <p>8 understand that if something's in writing, it's harder</p> <p>9 to avoid than if it's not in writing. Would you agree?</p> <p>10 MR. DOWER: Objection, form.</p> <p>11 A. I'm not -- I was not trying to avoid anything.</p> <p>12 I was looking at a process that I did not see needed to</p> <p>13 be changed.</p> <p>14 Q. (BY MR. NOTZON) Even though there's people</p> <p>15 calling for it to change so that there is a written</p> <p>16 record and some ability to rely on and review the</p> <p>17 decision?</p> <p>18 A. It came up at one or possibly two occasions</p> <p>19 that I recall. To me, that's not sufficient reason to</p> <p>20 justify a change.</p> <p>21 Q. And you believe that at no time in history did</p> <p>22 anybody ever ask for the president's decision to be put</p> <p>23 in writing?</p> <p>24 MR. DOWER: Objection, form.</p> <p>25 A. I can't say what happened in history.</p>



<p>74</p> <p>1 Q (BY MR. NOTZON) Okay. When was the first 2 time that you recall that Dr. Nikolova had an issue with 3 potential gender discrimination or pregnancy 4 discrimination?</p> <p>5 MR. DOWER: Objection, form.</p> <p>6 A. My recollection is when I was informed that 7 she had -- after the decision, I was informed that she 8 had submitted a grievance to the CCAFR Committee.</p> <p>9 Q. (BY MR. NOTZON) Okay. So prior to that, 10 there was never any discussion about her being 11 concerned -- her or others on her behalf being concerned 12 about the presence of gender bias or pregnancy bias in 13 her promotion process?</p> <p>14 A. Sitting here today, I can't recall anything 15 prior to being informed that she was submitting a 16 grievance to CCAFR.</p> <p>17 Q. Okay. And who told you that?</p> <p>18 A. I can't say who specifically. It would have 19 likely been Carmen Shockley, the Director of the 20 Academic Personnel Office. It possibly could have been 21 Janet Dukerich the Vice President -- excuse me -- the 22 Vice Provost for Faculty Affairs. It would have been 23 one of those two.</p> <p>24 Q. Okay. And was that an official communication, 25 or was that a unofficial communication?</p>	<p>76</p> <p>1 second page --</p> <p>2 A. Uh-huh.</p> <p>3 Q. -- that first paragraph --</p> <p>4 A. Right.</p> <p>5 Q. -- do you remember who that -- the last 6 sentence says that the final argument resulted in a 7 positive decision. Does that mean that the termination 8 appointment would have been reversed, and they would 9 have been tenured?</p> <p>10 A. Correct.</p> <p>11 Q. And do you remember who that was?</p> <p>12 A. No.</p> <p>13 Q. I'm sorry?</p> <p>14 A. No, I do not.</p> <p>15 Q. Okay. Because in the documents that I've 16 seen, it doesn't look like that -- at least that's not 17 recorded, that part.</p> <p>18 A. I -- I don't know --</p> <p>19 Q. Okay.</p> <p>20 A. -- what documents you're referring to.</p> <p>21 Q. Yeah, it's a spreadsheet provided by UT with a 22 list of the individuals that have been considered for 23 tenure and the votes and the decisions.</p> <p>24 A. I don't have that document.</p> <p>25 Q. All right. I guess I -- maybe I can -- let me</p>
<p>75</p> <p>1 MR. DOWER: Objection, form.</p> <p>2 A. Again, I don't remember the exact timing. 3 Typically, either Carmen or Janet would inform me 4 which -- if there were cases of grievances being 5 submitted to CCAFR and then, generally, they would have 6 a copy of it and their general practice was to send me 7 copies of the -- of the grievance.</p> <p>8 Q. (BY MR. NOTZON) So that would have been an 9 official policy-based procedure of communication that 10 you learned of her -- of the presence of a potential of 11 a gender discrimination complaint?</p> <p>12 A. That's correct.</p> <p>13 Q. Let me -- let me see if I can put up another 14 exhibit.</p> <p>15 MR. NOTZON: Okay. This will be 16 Exhibit 34. 17 (Exhibit 34 marked.)</p> <p>18 A. Okay.</p> <p>19 Q. (BY MR. NOTZON) Let me know when you're 20 ready.</p> <p>21 A. I can see it.</p> <p>22 Q. Okay. So this is the Faculty Annual Report 23 from 2017/2018, correct?</p> <p>24 A. Yes.</p> <p>25 Q. All right. And if you look at the top of the</p>	<p>77</p> <p>1 just go ahead and put that up, too. That will be 35 -- 2 so just to be clear, in Exhibit 34, that person that's 3 being referred to, that would have been someone -- that 4 decision would have been made in the 2017-2018 -- so the 5 spring of 2018; or would it have been the year before?</p> <p>6 A. Well, at some point we changed the schedule 7 around that time. So it was either the President's 8 Committee meeting in December of 2017; and final 9 arguments would typically take place, if submitted, in 10 January 2018. Again, we changed the timing. So it's 11 possible the President's Committee made the decision in 12 February or March of 2018, and then final arguments 13 would have occurred a month or so later.</p> <p>14 Q. Okay. And this -- this document would have 15 been at the end of the academic year?</p> <p>16 A. I assume so. I -- it's not dated, but it's a 17 summary of the academic year. So it would be sometime 18 near the end or past the end of the academic year.</p> <p>19 Q. So it should be talking about a decision that 20 was made in the -- in that academic year?</p> <p>21 A. Correct.</p> <p>22 Q. That would have -- so that person who then got 23 tenure, the tenure would start in the fall of '18?</p> <p>24 A. September 1st, 2018.</p> <p>25 Q. Okay. Let me put up 35.</p>



<p style="text-align: right;">78</p> <p>1 (Exhibit 35 marked.)</p> <p>2 Q (BY MR. NOTZON) Okay.</p> <p>3 A. So this is a spreadsheet?</p> <p>4 Q. Yes.</p> <p>5 A. Pull up Excel. Okay. All right. I'm seeing</p> <p>6 a spreadsheet.</p> <p>7 Q. Okay. And if you look at the bottom of the</p> <p>8 spreadsheet, there are two tabs.</p> <p>9 A. Uh-huh.</p> <p>10 Q. And the second tab is the tenure decisions.</p> <p>11 A. This is -- the tab is titled Engineering</p> <p>12 Tenure Decisions.</p> <p>13 Q. Yes, sir. And if you look at the Column A,</p> <p>14 that's the column where the tenure would start. So the</p> <p>15 person should be -- from Line 82 down to Line 89 would</p> <p>16 be one of the persons you're referring to, I'm assuming.</p> <p>17 A. Can I ask you what your question is?</p> <p>18 Q. Yes. I'm trying to find out who that person</p> <p>19 is -- I'm trying to refresh your recollection as to who</p> <p>20 that person is that was initially denied tenure; then,</p> <p>21 after final arguments, got tenure.</p> <p>22 A. So as referenced in the Faculty Council</p> <p>23 minutes?</p> <p>24 Q. Yeah, that first paragraph.</p> <p>25 A. So that first paragraph, I understand, is a</p>	<p style="text-align: right;">80</p> <p>1 (Off the record from 11:25 to 11:39 a.m.)</p> <p>2 THE REPORTER: We're going back on the</p> <p>3 record at 11:39 a.m.</p> <p>4 Q (BY MR. NOTZON) Okay. Back from the break.</p> <p>5 Dr. Fenves, we were talking about this spreadsheet and</p> <p>6 you had -- I was trying to point you to Lines 82 to 89,</p> <p>7 which, from Column A, appear to be the persons in the</p> <p>8 engineering department that went up for tenure in the</p> <p>9 2017-2018 academic year. And I'm asking if any of</p> <p>10 those people might have been the person mentioned in</p> <p>11 Exhibit 34 on page 2 as the person that got their tenure</p> <p>12 after final arguments.</p> <p>13 Do you understand that those, I guess,</p> <p>14 eight people would be in the group of people that might</p> <p>15 have been one of those persons?</p> <p>16 A. No, several of them would not have been</p> <p>17 because they went up early; and so final arguments is</p> <p>18 only available for faculty who have completed the full</p> <p>19 six-year probationary period.</p> <p>20 Q. Okay. But in terms of the time period, we got</p> <p>21 the time period right?</p> <p>22 A. If I understand -- you're asking me to look at</p> <p>23 Lines 82 to 89. If I understand the ques- -- I'm</p> <p>24 looking at those names. I -- it's based on the</p> <p>25 assumption that that Faculty Council document was</p>
<p style="text-align: right;">79</p> <p>1 statement about university-wide cases. The spreadsheet</p> <p>2 you just submitted to me is engineering. So I don't</p> <p>3 know that the person that's being referenced in the</p> <p>4 Faculty Council minutes was in engineering or not.</p> <p>5 Q. That might explain it.</p> <p>6 So, if you could, look at those people</p> <p>7 and confirm that, from what you see, they wouldn't have</p> <p>8 been one -- they wouldn't have been that person.</p> <p>9 A. There's a lot of data here. You're asking me</p> <p>10 to confirm --</p> <p>11 Q. I'll direct you to the Line 89.</p> <p>12 A. I'd have to -- well, I can take the time to</p> <p>13 look at the spreadsheet. It's the first time I've seen</p> <p>14 it. I -- I'm not sure how -- I need to understand what</p> <p>15 information is here, first.</p> <p>16 Q. Sure. I understand. That makes sense.</p> <p>17 A. College up and out...</p> <p>18 MR. DOWER: Robert, we've been going for</p> <p>19 about an hour. Maybe we could take a break here. I</p> <p>20 don't want to interrupt your flow or -- if you're mid-</p> <p>21 question.</p> <p>22 MR. NOTZON: Let's go ahead and go off</p> <p>23 the record.</p> <p>24 THE REPORTER: We're going off the record</p> <p>25 at 11:25 a.m.</p>	<p style="text-align: right;">81</p> <p>1 referring to faculty that were promoted in that year.</p> <p>2 If that's the correct assumption, those are the right</p> <p>3 lines.</p> <p>4 Q. Okay. And it -- there's no -- there doesn't</p> <p>5 seem to be any information on this spreadsheet related</p> <p>6 to that -- or related to a reversal of a initial</p> <p>7 decision to not grant tenure?</p> <p>8 A. I don't see any information for the cases in</p> <p>9 which that would be a possibility.</p> <p>10 Q. And reading those names of those professors</p> <p>11 doesn't refresh your recollection?</p> <p>12 A. No. Some of them I don't even recognize, a</p> <p>13 few -- actually, most of them I don't even recognize.</p> <p>14 Q. Right. How many times did you reverse a</p> <p>15 decision not to grant tenure after a final argument</p> <p>16 while you were the president?</p> <p>17 A. I -- I can't remember. Clearly there was one,</p> <p>18 as documented here; but I can't remember beyond that.</p> <p>19 Q. I -- I would imagine that's not -- there would</p> <p>20 be more not reversals than reversals. Do you have an</p> <p>21 understanding about that?</p> <p>22 A. So, first of all, that depends on final</p> <p>23 arguments being submitted. Those were not submitted in</p> <p>24 all cases of terminal appointments; but, just generally,</p> <p>25 it would be a rare circumstance to reverse a terminal</p>

<p style="text-align: right;">82</p> <p>1 appointment. But that process is offered and is done,  2 as you can see from those minutes.  3 Q. Okay. And you just don't have a memory of how  4 often or common it was?  5 A. I don't. I've reviewed over 800 cases in my  6 time on the President's Committee and made decisions on  7 600, so I don't remember the specifics.  8 Q. Okay. Do you remember how many times you  9 reversed a recommendation from Dean Wood?  10 A. Sitting here today, I do not recall having  11 reversed a recommendation from Dean Wood.  12 Q. Okay. And looking at the spreadsheet,  13 Exhibit 35, and sticking with that tab, Engineering  14 Tenure Decisions --  15 A. Uh-huh.  16 Q. -- it appears that there's two times that you  17 reversed Dean Wood's recommendation and both were  18 Dean Wood's recommendation to not grant tenure and you  19 decided to grant tenure. And I'll point them out to you  20 that I can --  21 A. Please do, yeah. I don't recall.  22 Q. Yeah. I'm just trying to introduce you to the  23 information.  24 A. Okay.  25 Q. So one is Line 45, and that's Professor Jayant</p>	<p style="text-align: right;">84</p> <p>1 situation?  2 A. I do not. I don't -- I mean, I recall Sirohi;  3 but I don't recall the specifics of the case and the  4 reason we -- we -- I made the decision opposite of the  5 Dean's recommendation.  6 Q. Okay. You don't recall any -- and this is a  7 man, correct?  8 A. Sirohi is a male, correct.  9 Q. And you don't remember any -- anything about  10 why he was someone that you viewed should be tenured at  11 UT when the P&amp;T and the Dean thought not?  12 A. Sitting here today, I do not recall. I would  13 need to review the case.  14 Q. Okay. And in all fairness, it was from the  15 tenure promotion decision year of 13-14. So it would  16 have been one of your first times out -- actually, no.  17 You were --  18 A. Oh, let me -- oh, I didn't see the date on  19 this. That's my error. So this was -- I would have  20 been Dean. So my decision was -- let's see. This was  21 2014-2015. So I would have been Provost at the time.  22 So the decision would have been President Powers'.  23 Q. Okay. So President Powers reversed your  24 decision?  25 A. I was Provost at the time, so --</p>
<p style="text-align: right;">83</p> <p>1 Sirohi.  2 A. Sirohi. Okay. Yes, I see that.  3 Q. Okay. So the -- if you see where you --  4 Dean Wood recommended terminal appointment, and you  5 promoted to Associate Professor?  6 A. That's what the spreadsheet shows, correct.  7 Q. Okay. And this was created by UT, so it's not  8 something I created. Okay?  9 A. The spreadsheet shows that, yes.  10 Q. Okay. And -- and it looks like the P&amp;T  11 Committee voted to deny tenure as well?  12 A. Which column is that?  13 Q. That's T and U.  14 A. Well, the P&amp;T vote was three for tenure, four  15 against.  16 Q. Yeah, so that would be a --  17 A. That's advisory to the dean, but that's  18 correct. That is the vote.  19 Q. Yeah. It's close, but it's still on the -- on  20 the terminal appointment side?  21 A. Correct.  22 Q. And then this would have been -- this was an  23 up-or-out-year decision, correct?  24 A. That's what this spreadsheet shows, correct.  25 Q. And I -- I have to ask: Do you recall this</p>	<p style="text-align: right;">85</p> <p>1 Q. Oh, okay.  2 A. -- this would have been a recommendation from  3 Dean Wood to the President's Committee. I was on the  4 committee as Provost. President Powers would have made  5 that decision.  6 Q. Okay. All right.  7 A. I should have checked that date.  8 Q. Yeah, so never mind. There's only one time  9 that you reversed Dean Wood on this -- on this data  10 from the engineering school -- well, it is engineering  11 since it's Dean Wood. If you look at Line 99, Janeta  12 Zoldan -- and that would have been from the '19-'20  13 decision year -- so it applied -- she received tenure in  14 the 2021 year, this year. Let me -- give you a chance  15 to read that Line 99, and let me know when --  16 A. Okay. I see that line. I -- this was  17 relatively recent, but I still -- the name's familiar.  18 I remember she was a faculty member in the, I believe,  19 Department of Biomedical Engineering; but I'm not sure.  20 Q. Yeah.  21 A. I think that's what I recall. I don't know if  22 that's on the spreadsheet.  23 Q. It is. It's G.  24 A. Oh, it is Biomedical. Okay. So I do recall  25 her. So, again, I don't remember that case in a number</p>

<p style="text-align: right;">86</p> <p>1 of cases; and this would have been -- this would have  2 been a year ago. So what I don't know is if that was  3 against the Dean's recommendation in the original  4 decision or there was -- this was a case where final  5 arguments were presented and it was based on a  6 reconsideration.  7 Q. Right. Either way, you decided to -- the  8 only -- the only person that recommended against  9 promotion was Dean Wood?  10 A. I'd have to review the rest of the  11 spreadsheet.  12 Q. Well, yeah -- it's there. So the vote of the  13 P&amp;T was 6 to 1.  14 A. Uh-huh.  15 Q. And the vote of the Budget Council was 11, 0,  16 0, 1, 1?  17 A. Yes, that's correct.  18 Q. So those are pretty strong recommendations  19 from those groups, right?  20 A. Right. And there's -- but there's --  21 Q. And this was in the seventh year; and if you  22 look at --  23 A. Oh, this was -- I'm sorry.  24 Q. -- you can look or you can take my  25 representation that the other tab Engineering Assistant</p>	<p style="text-align: right;">88</p> <p>1 at the time you made the decision to promote, you would  2 have known that Professor Nikolova, or Dr. Nikolova, had  3 already made a complaint against UT for not having  4 received tenure based upon gender discrimination and  5 pregnancy discrimination?  6 MR. DOWER: Objection, form.  7 A. By the timing, the way I understand the timing  8 of this decision for Zoldan, it took place in 2021 -- it  9 took place in -- I don't know what the years mean. This  10 would look like it -- I don't know if this took place --  11 this couldn't have taken place in 2021 because I wasn't  12 on the President's Committee in 2021.  13 Q. Well, let me -- let me tell you. The first  14 column, which says 2020 to 2021 --  15 A. Right.  16 Q. -- that's the year that the promotion would  17 take effect.  18 A. Okay. So she became -- okay. Now, I  19 understand. That means --  20 Q. The decision would have been made in the  21 spring of --  22 A. 2020.  23 Q. -- 2020?  24 A. Right. Okay. And so I understand  25 Professor Nikolova's grievance against CCAFR and the</p>
<p style="text-align: right;">87</p> <p>1 Professors, that tab lists everybody that was an  2 assistant professor in engineering, whether they went up  3 for tenure or not and whether they took a probationary  4 extension or stop the clock, which Professor Zoldan did.  5 That's why it's occurring in the seventh year, and the  6 seventh year was her up-and-out year. Would you like to  7 confirm that or --  8 A. So looking at this spreadsheet, she was six  9 years in the probationary period. So that was her  10 up-or-out year.  11 Q. Right. But she was seven years at UT?  12 A. Yes, that's what the data shows. So the  13 assumption is she had used the stop-the-clock policy for  14 one year, but we would have considered it as a six-year  15 probationary period.  16 Q. Right. I'm saying you don't have to assume if  17 you want to confirm, but I'm telling you the other tab  18 shows it. But you're welcome to look if you want to.  19 I'm sorry?  20 A. I don't need to.  21 Q. Okay. And you -- is it your testimony that  22 you don't recall the circumstances of this decision?  23 A. Sitting here today, I don't recall the  24 specifics of the case or circumstances for the decision.  25 Q. Okay. And it would be accurate, though, that</p>	<p style="text-align: right;">89</p> <p>1 litigation were underway with the year before. So, yes,  2 I recognize that timing.  3 Q. Okay. And Professor Zoldan is a woman?  4 A. Correct.  5 Q. And had taken a pregnancy leave or -- I mean  6 a -- she had taken -- well, let's go ahead and look at  7 it. If you look at the first tab --  8 A. Yes.  9 Q. -- now, this isn't organized in the same  10 fashion, so if you look at Line 86, you'll find her.  11 A. Okay.  12 Q. Let me know when you've got it.  13 A. I have it. I'm on Line 86.  14 Q. Okay. And if you look at -- down to  15 Column M --  16 A. Uh-huh.  17 Q. -- it shows that she was expecting a child in  18 Column K, that she took the probationary extension?  19 A. I see that, yes.  20 Q. So she would be in the similar position to  21 Dr. Nikolova of taking the probationary extension  22 because she was expecting a child and, therefore, was --  23 if she had been denied tenure, she might have been in a  24 similar situation to Dr. Nikolova of considering that  25 maybe she was denied for reasons other than not having</p>

<p>90</p> <p>1 met the qualifications for tenure?</p> <p>2 MR. DOWER: Objection, form.</p> <p>3 A. I can't speculate on that.</p> <p>4 Q (BY MR. NOTZON) Right. But that -- those</p> <p>5 facts would put her similar to Dr. Nikolova, correct?</p> <p>6 MR. DOWER: Objection, form.</p> <p>7 A. Again, I don't have -- I can't -- I can't</p> <p>8 speak to that because I don't know what fact sets you're</p> <p>9 talking about.</p> <p>10 Q. (BY MR. NOTZON) Okay. Well, Dr. Nikolova has</p> <p>11 complained that UT did not give her tenure, either</p> <p>12 because she's a woman or because she was pregnant. Do</p> <p>13 you understand that?</p> <p>14 A. I understand that.</p> <p>15 Q. Okay. And you understand that Dr. Zoldan was</p> <p>16 a woman who went up for tenure and was denied by</p> <p>17 Dean Wood, like Dr. Nikolova was denied by Dean Wood;</p> <p>18 and she had taken the probationary extension for</p> <p>19 pregnancy?</p> <p>20 MR. DOWER: Objection, form.</p> <p>21 A. That's what the spreadsheet is showing.</p> <p>22 Q (BY MR. NOTZON) Okay. And she also had a</p> <p>23 positive vote from the P&amp;T Committee and a positive vote</p> <p>24 from her Budget Council, right?</p> <p>25 A. That's what the spreadsheet shows.</p>	<p>92</p> <p>1 denial of promotion?</p> <p>2 A. A terminal appointment, if approved by the</p> <p>3 President's Committee, would be denial of a promotion,</p> <p>4 correct.</p> <p>5 Q. So this is the only time that you reversed a</p> <p>6 decision for recommendation from Dean Wood, from the</p> <p>7 information provided by UT in this spreadsheet, correct?</p> <p>8 A. So Dean Wood became Dean in 2013 -- I should</p> <p>9 say I became president in 2015, so that would be 2016</p> <p>10 and beyond. So Line 66 and beyond, so that is correct.</p> <p>11 Q. Once you found out that -- well, are you</p> <p>12 aware of any investigation by any group at UT into</p> <p>13 Dr. Nikolova's complaint of pregnancy or gender</p> <p>14 discrimination?</p> <p>15 A. Dr. Nikolova did submit a grievance alleging</p> <p>16 that to the CCAFR Committee. The CCAFR Committee issued</p> <p>17 a report. I am not aware of any other administrative or</p> <p>18 other proceedings investigating that claim.</p> <p>19 Q. Okay. And just to be clear, is CCAFR a</p> <p>20 university organization?</p> <p>21 A. So CCAFR is a part of a -- the policy, the</p> <p>22 Handbook of Operating Procedures, I believe it's in. It</p> <p>23 is a committee of the Faculty Council. So, yes, it is a</p> <p>24 committee of the university.</p> <p>25 Q. Okay. But it's not supervised by anybody at</p>
<p>91</p> <p>1 Q. As did Dr. Nikolova, correct?</p> <p>2 A. Right.</p> <p>3 Q. And the only person that voted against -- from</p> <p>4 the Dean on down, that voted against either Zoldan or</p> <p>5 Nikolova was Dean Wood?</p> <p>6 MR. DOWER: Objection, form.</p> <p>7 A. The Dean made recommendations in those two</p> <p>8 cases. Without looking at the Zoldan case, I can't</p> <p>9 speak to what the reasons were.</p> <p>10 Q. (BY MR. NOTZON) Right. No, I'm just talking</p> <p>11 about the recommendation to the President's Committee</p> <p>12 was the same?</p> <p>13 A. Could you repeat the question?</p> <p>14 Q. The only person that recommended against</p> <p>15 tenure below the President's Committee was Dean Wood in</p> <p>16 both the Zoldan and Nikolova case?</p> <p>17 MR. DOWER: Objection, form.</p> <p>18 A. I view them as two different cases.</p> <p>19 Q (BY MR. NOTZON) Right. They are two</p> <p>20 different cases.</p> <p>21 A. So in each -- in one case the Dean's</p> <p>22 recommendation was that Professor Nikolova was do not</p> <p>23 promote at this time, without prejudice. In this case</p> <p>24 this was a terminal appointment in an up-or-out year.</p> <p>25 Q. Yeah. Which was -- yeah, which is ultimately</p>	<p>93</p> <p>1 the university?</p> <p>2 MR. DOWER: Objection, form.</p> <p>3 A. The --</p> <p>4 Q (BY MR. NOTZON) Let me -- let me re-ask the</p> <p>5 question. That was a bad question.</p> <p>6 It's not supervised by the Administration</p> <p>7 of the University, correct?</p> <p>8 A. The Faculty Council is an independent body</p> <p>9 within the overall shared governance responsibilities,</p> <p>10 the faculty and the administration. And so the Faculty</p> <p>11 Council elects its own members, appoints its own</p> <p>12 officers, and appoints its own committees, including</p> <p>13 CCAFR.</p> <p>14 Q. So the answer is, yes, that's correct?</p> <p>15 A. The University Administration has no role</p> <p>16 in -- in the Faculty Council proceedings, including</p> <p>17 CCAFR.</p> <p>18 Q. Okay. So back to my question, was there -- I</p> <p>19 guess the answer would be -- I think you answered; but</p> <p>20 just to be clear, no University of Texas Administration</p> <p>21 organization, like OIE, Office of Institutional Equity,</p> <p>22 or any of the EEO groups or Human Resources groups did</p> <p>23 an investigation into Dr. Nikolova's complaint of gender</p> <p>24 or pregnancy discrimination, correct?</p> <p>25 A. So I'm not aware of any university office</p>

<p style="text-align: right;">94</p> <p>1 outside of the Faculty Council Committee conducting an 2 investigation. 3 Q. Okay. And why is that that a University did 4 not conduct an investigation of Dr. Nikolova's 5 complaint? 6 MR. DOWER: Objection, form. 7 A. So under the policy of the University of 8 Texas, as I remember it, the first step in a faculty 9 grievance process is through the Faculty Council, where 10 the faculty are reviewing the grievance and developing a 11 finding. 12 Q. (BY MR. NOTZON) Isn't a faculty grievance 13 separate and apart from a complaint of discrimination? 14 A. I -- I don't think I can answer that. There 15 is an Equal Employment Opportunity office that 16 investigates complaints of -- a grievance of 17 discrimination. I do not remember how that relates to 18 faculty. They're clearly employees; but as faculty, my 19 understanding and my recollection about reviewing the 20 policies, is that primarily goes through the Faculty 21 Council Committee of CCAFR. 22 Q. Would you agree in looking at the CCAFR report 23 that they -- well, let me back up. 24 Isn't it true that you have no reason to 25 believe that CCAFR has any expertise or training in the</p>	<p style="text-align: right;">96</p> <p>1 of Institutional Equity. 2 Q. So you're not saying that there's a policy 3 that says that UT will take a hands-off approach to 4 complaints of discrimination and let CCAFR do an 5 investigation first? That's not your testimony? 6 A. My testimony, without referencing the relevant 7 policy documents, is faculty complaints and grievances 8 go through, primarily, CCAFR. There may be a mechanism 9 for submitting complaints to the Office of Institutional 10 Equity, and that office will thoroughly investigate each 11 complaint that's filed with them. 12 Q. Is it your testimony that the Office of 13 Institutional Equity will not investigate allegations 14 of discrimination unless a formal complaint is filed by 15 the -- by someone? 16 A. I can't testify to what their procedures are. 17 I just can't. 18 Q. As a member of administration, do you 19 understand that you -- if you receive a complaint of 20 discrimination, that you are required to report that to 21 the Office of Institutional Equity? 22 A. Yes -- well, I'm sorry. I'm sorry let me back 23 up -- rephrase -- could you say the question again? 24 MR. NOTZON: Debbie, can you read it? 25 (The requested material was read as</p>
<p style="text-align: right;">95</p> <p>1 investigation of complaints of discrimination? 2 A. I -- so I can't say what training CCAFR has. 3 It's a Faculty Council Committee. They're often members 4 of the law school faculty who are on CCAFR, but I don't 5 know the specifics. 6 Q. You have no reason to believe that anybody on 7 CCAFR has been trained to conduct investigations of 8 complaints of discrimination or retaliation, correct? 9 A. I have no knowledge of that. 10 Q. What was the answer? 11 A. I have no knowledge of that. 12 Q. Whereas, you are aware that the organizations 13 at UT that conduct investigations of discrimination and 14 retaliation are trained professionals, correct? 15 A. That's correct. 16 Q. So I'll ask again: Why is it that UT did not, 17 on its own, investigate a complaint of discrimination 18 made by one of its employees at any time? 19 A. My general understanding -- and I would need 20 to go back and review and study the policy regarding 21 faculty -- is twofold: One those complaints go through 22 the Faculty Council; and, Number 2, the University, to 23 my knowledge, doesn't investigate a complaint unless a 24 complaint has been filed with that office. And I have 25 no knowledge of a complaint being filed with the Office</p>	<p style="text-align: right;">97</p> <p>1 follows: "QUESTION: As a member of administration, do 2 you understand that you -- if you receive a complaint of 3 discrimination, that you are required to report that to 4 the Office of Institutional Equity?") 5 A. In terms of legal requirements, if I receive a 6 complaint of a Title IX discrimination, as a mandatory 7 reporter, I'm required to report that under Title IX to 8 the relevant Title IX -- to the Title IX official at the 9 University. I'm not aware of any other legal -- legal 10 requirements. And in the case of faculty, the procedure 11 is well established that complaints that violate due 12 process, including discrimination, go through CCAFR. 13 Q. (BY MR. NOTZON) Are there any policy 14 requirements that a member of UT Administration that is 15 aware of complaints of discrimination, that they are 16 required to report that to OIE or some other 17 organization within UT? 18 A. I -- I can't recall any -- any formal policy, 19 required policy. 20 Q. And that Title IX requirement, what do you 21 recall the -- you said you were a designated reporting 22 official? 23 A. So under UT Austin policies at the time I was 24 President, all employees of the university were 25 classified as mandatory reporters under Title IX, with a</p>

<p>98</p> <p>1 few exceptions.</p> <p>2 Q. Okay. All employees, whether they supervised</p> <p>3 anyone or not?</p> <p>4 A. Correct.</p> <p>5 Q. And you're not aware of any policy with UT</p> <p>6 that required that anyone that is in a supervisory role</p> <p>7 is required to report complaints of discrimination or</p> <p>8 harassment, regardless of whether or not the victim is</p> <p>9 complaining officially or not?</p> <p>10 A. I am not aware of any policy such as that.</p> <p>11 MR. NOTZON: Let's go ahead and take a</p> <p>12 break for just a couple of minutes. I'm getting close</p> <p>13 to the end of, I think, the personal testimony and</p> <p>14 looking to go towards the corporate rep; but let me</p> <p>15 double-check that. Okay?</p> <p>16 MR. DOWER: Fair enough.</p> <p>17 THE REPORTER: Going off the record at</p> <p>18 12:14 p.m.</p> <p>19 (Off the record from 12:14 to 1:07 p.m.)</p> <p>20 THE REPORTER: We're going back on the</p> <p>21 record at 1:07 p.m.</p> <p>22 Q (BY MR. NOTZON) Okay. So, Dr. Fenves, back</p> <p>23 from lunch. So looking at Exhibit 32, which was the</p> <p>24 depo notice, the three corporate rep topics are now what</p> <p>25 I'm going to focus on.</p>	<p>100</p> <p>1 recollection of the discussion at the time being</p> <p>2 refreshed by the facts within the case.</p> <p>3 Q. Okay. So earlier you testified to</p> <p>4 approving -- or deciding on 800 and 600 cases in your</p> <p>5 various roles, 600 as President, as a means of</p> <p>6 testifying that you didn't recall details, to include</p> <p>7 ones from just last year.</p> <p>8 So what you're saying is -- well, I</p> <p>9 guess: Why is it that you are able to remember these</p> <p>10 two reasons?</p> <p>11 A. Because I had the opportunity to review the</p> <p>12 dossier in some depth.</p> <p>13 Q. Okay. So if you had the opportunity to review</p> <p>14 the other dossiers, you might have a recollection as</p> <p>15 well?</p> <p>16 A. I might, yeah.</p> <p>17 Q. What did you do to prepare for your deposition</p> <p>18 on this topic?</p> <p>19 A. I met with the Counsel for the University,</p> <p>20 reviewed documents.</p> <p>21 Q. Did you have any discussions with anyone else?</p> <p>22 A. No.</p> <p>23 Q. And other than the dossier, what did you</p> <p>24 review?</p> <p>25 A. I reviewed the dossier for Professor Nikolova</p>
<p>99</p> <p>1 A. Okay.</p> <p>2 Q. The first one is the decision to deny tenure</p> <p>3 to Dr. Nikolova, including facts and circumstances and</p> <p>4 reasons for the decision. So, if you could, tell us the</p> <p>5 reason why you did not -- you decided to deny tenure to</p> <p>6 Dr. Nikolova.</p> <p>7 A. Based on the dossier and the recommendation of</p> <p>8 the Dean to "do to not promote," we agreed with Dean.</p> <p>9 My recollection of the -- this deliberation of the</p> <p>10 President's Committee is that it was primarily based on</p> <p>11 concerns about the -- primarily the research funding,</p> <p>12 the sustainability of maintaining a research program,</p> <p>13 and the future trajectory of her research.</p> <p>14 The second consideration was the</p> <p>15 publications record, both journal publications and</p> <p>16 conference publications, were not at the level that we</p> <p>17 would really like to see for a tenured faculty member.</p> <p>18 So those were the primary reasons for</p> <p>19 agreeing with the Dean's recommendation.</p> <p>20 Q. Okay. Funding -- funding sustainability and</p> <p>21 trajectory for the future and the publication record?</p> <p>22 A. Publication record.</p> <p>23 Q. Okay. And how do you recall that?</p> <p>24 A. I recall it by reviewing the dossier for</p> <p>25 Dr. Nikolova's case and, you know, just based on my</p>	<p>101</p> <p>1 and then, to a lesser extent, because of the number -- I</p> <p>2 think there were a total of 13 dossiers --</p> <p>3 Q. Oh, no. This question is just for Topic</p> <p>4 Number 1.</p> <p>5 A. Topic Number 1. So I reviewed the dossier for</p> <p>6 Dr. Nikolova, and then most recently the CCAFR report on</p> <p>7 the grievance that Dr. Nikolova submitted, and my</p> <p>8 response as President to the CCAFR report.</p> <p>9 Q. Okay. And as part of the dossier for</p> <p>10 Dr. Nikolova, you would have reviewed Dean Wood's</p> <p>11 assessment?</p> <p>12 A. Correct.</p> <p>13 Q. Okay. And did your review of that information</p> <p>14 refresh your recollection at all of any communications</p> <p>15 from Dean Wood to the -- to you and the committee when</p> <p>16 she appeared to discuss Dr. Nikolova's case?</p> <p>17 A. The only communication that I recall would</p> <p>18 have taken place during the meeting, the President's</p> <p>19 Committee meeting, with Dean Wood to discuss the case.</p> <p>20 And, yes, I had a general -- I can't recall any</p> <p>21 specifics of that discussion; but reviewing the case, I</p> <p>22 have a general -- a general memory of it taking place.</p> <p>23 Q. Okay. And do you recall questioning Dean Wood</p> <p>24 about why she's contradicting the Budget Council and the</p> <p>25 P&amp;T Committee?</p>



<p style="text-align: right;">102</p> <p>1 A. We would have certainly asked her to justify 2 that, yes. 3 Q. Do you recall doing that? 4 A. I -- so this was 2019. I -- I don't 5 specifically recall it, but it would almost certainly 6 have happened because that's what we would do when a 7 Dean is making a do-not-promote recommendation, 8 especially if it is different from what the P&amp;T 9 Committee vote was. 10 Q. I'm putting an exhibit in the chat. It was 11 previously marked as Exhibit 2. 12 (Exhibit 2 discussed.) 13 A. For some reason it's not coming up -- I see it 14 in the chat; but for some reason -- oh, here we go. 15 Yes, I have it. 16 Q. (BY MR. NOTZON) Okay. And this is 17 Dean Wood's assessment of Dr. Nikolova that you would 18 have reviewed as part of the President's Committee 19 process; is that correct? 20 A. That is correct. 21 Q. And that you recently reviewed in preparation 22 for today? 23 A. Correct. 24 Q. Do you see in here any communication from 25 Dean Wood that -- that expresses the P&amp;T Committee's</p>	<p style="text-align: right;">104</p> <p>1 that assessment for you and the Committee? 2 A. Well, her whole document is a factual summary 3 that is included in the previous documents; and that 4 paragraph is typically what we would see in a Dean's -- 5 a Dean's conveying of a Promotion and Tenure Committee. 6 That's a typical type of summary that we would see. 7 Q. Along with other details that the P&amp;T 8 Committee would have discussed and relied upon for a 9 unanimous vote, correct? 10 A. I don't know if that is correct. Again, the 11 summary is typically what we will see in a Dean's 12 report or a Dean's assessment to the University -- to 13 the President's Committee -- excuse me -- assessing -- 14 conveying what the -- the nature of the P&amp;T decision -- 15 P&amp;T recommendation was. 16 Q. Isn't it accurate that the other part of the 17 process that is not in writing is the P&amp;T Committee's 18 discussion? 19 MR. DOWER: Objection, form. 20 A. The P&amp;T Committee meets -- it takes a vote on 21 record, is supposed to meet with the Dean and have a 22 discussion with the Dean about -- about the case. So 23 that's -- that is the way it -- the policy -- the 24 procedure in which it has been done. That's a 25 requirement. Excuse me.</p>
<p style="text-align: right;">103</p> <p>1 positive review of Dr. Nikolova, which was, you know, a 2 100 percent vote that she had? 3 A. Let me go through it again on that specific 4 question. 5 Under Overall Assessment she says, "As 6 noted previously, the Promotion &amp; Tenure Committee 7 strongly supported Dr. Nikolova's case. Then noted -- 8 they noted the uniform support of her innovative 9 research and felt that her teaching was a minor 10 concern." 11 Q. So that's the full extent of her commenting on 12 the P&amp;T Committee's unanimous vote? 13 A. I believe so. 14 Q. Isn't she required under the policies and 15 procedures to provide a full assessment of the P&amp;T 16 Committee basis for its vote and not just a summary 17 sentence like that? 18 A. I don't know if that is a requirement. 19 Q. Do you know that it's a requirement that she's 20 actually supposed to attend the P&amp;T Committee's 21 discussion of Dr. Nikolova? 22 A. I believe that is a -- that's part of our 23 policy or procedure. 24 Q. And the reason -- one of the reasons for that 25 is because she is supposed to then, therefore, provide</p>	<p style="text-align: right;">105</p> <p>1 In engineering, when I was Dean, the P&amp;T 2 Committee would draft the assessment. So it would be -- 3 they would take the first draft of what the Dean's 4 letter is and then I would take that as their report to 5 me and then it would become my -- my -- the basis for my 6 report and my decision. I don't know if Dean Wood had 7 followed that same procedure. 8 Q. Or if she changed it? 9 A. Or if she changed it. 10 Q. Okay. 11 MR. NOTZON: Let's put up Exhibit 36. 12 (Exhibit 36 marked.) 13 A. Okay. 2018/2019 Evaluation Template? 14 Q. (BY MR. NOTZON) Yes. 15 A. Yes, I have it. 16 Q. And it's a four-page document? 17 A. Yes, correct. 18 Q. Okay. And these -- if you look down below, do 19 you understand that these are the notes from the P&amp;T 20 Committee? 21 A. I've never seen this document before. This is 22 a different procedure than I had when I was Dean; but I 23 understand that these -- yeah, I've never seen this 24 before. So I don't know who wrote it. 25 Q. Okay. Let me go ahead and put up the document</p>



<p style="text-align: right;">106</p> <p>1 just before that as Exhibit 37; and when I say "just 2 before that," I'm talking about if you look in the 3 bottom right-hand corner of the first page, there's a 4 number, 7551. 5 A. Yes. 6 Q. That's UT's Bates number for that document, 7 and I'm going to put up Number 7550. 8 A. Okay. 9 (Exhibit 37 marked.) 10 A. Uh-huh, I see it. 11 Q. (BY MR. NOTZON) Okay. 12 A. So I looked at it, "I managed to...the 13 committee notes of Nikolova." Okay. 14 Q. Right. 15 A. So that's the P&amp;T Committee notes. 16 Q. Correct. 17 A. Uh-huh. 18 Q. In looking back at Exhibit 36, 7551 and the 19 subsequent pages, you see that this is the notes of the 20 P&amp;T Committee's discussions and the basis supporting 21 their unanimous vote for Dr. Nikolova's promotion? 22 A. I see a series of notes, yes, correct. 23 Q. Do you see that there's several items in here 24 that are not part of and not summarized by Dean Wood in 25 her Exhibit 2?</p>	<p style="text-align: right;">108</p> <p>1 like -- again, for the purposes of the Dean's letter, it 2 looks like a very typical summary of research. 3 Q. The statement that Dr. Nikolova is considered 4 a leader in this emerging area, do you see that that's 5 notably absent from Dean Wood's assessment? 6 A. I see that -- 7 MR. DOWER: Objection, form. 8 A. -- it's not included in her assessment, 9 that's correct. 10 Q. (BY MR. NOTZON) And you're talking about 11 one of the reasons you were denying tenure was her 12 publication record and that it was weaker than you 13 thought it ought to be. Wouldn't that depend upon the 14 nature of the field? 15 A. Yes, the publication record depends upon the 16 nature of the field and what the expectations are for 17 that field or for that subfield. 18 Q. And was that taken into consideration by 19 Dean Wood or you? 20 A. I believe so, yes. 21 Q. And in what way? 22 A. Through experience in seeing lots of cases and 23 through some of the comments in the external letters. 24 Q. Which were positive, not negative? 25 A. There were some positive -- quite a few</p>
<p style="text-align: right;">107</p> <p>1 A. Well, I've got to go through it more -- more 2 carefully. I mean, this -- Section B quotes external 3 letters. Generally Dean's assessments don't quote 4 external letters. You can -- our -- our regular advice 5 to deans is we can read the letters ourselves. We don't 6 need them to use their space to quote letters, so that 7 one -- 8 Q. But they will -- they will do that when 9 they're wanting to say something positive? 10 MR. DOWER: Objection, form. 11 A. In general our advice to deans is, "Don't 12 quote from letters; we can read the letters." Does 13 everybody follow our advice? I can't say a hundred 14 percent. 15 Q. (BY MR. NOTZON) Do you see the explanation 16 provided for research? 17 A. You're talking about Section 2.2C -- or 18 Section C? 19 Q. Yeah -- well, Section 2, 2A as well. 20 A. Yes, I see it. 21 Q. Do you see some positive information here 22 that's not contained in Dean Wood's assessment? 23 A. I see some factual information. She has a 24 paragraph -- Dean Wood, I should say, has a paragraph on 25 the first page summarizing her research. That looks</p>	<p style="text-align: right;">109</p> <p>1 positive ones, but there were some letters that did 2 raise concerns and statements in some of the letters 3 that did raise concerns. 4 Q. Could you point out the concerns that you 5 focused on in your denial of tenure to Dr. Nikolova or 6 that Dean Wood focused on? 7 A. Well, I -- so, again, this was two years ago. 8 I can't remember the specifics of the discussion; but 9 as I've gone back and reviewed the dossier, seeing the 10 same -- same letters I would have seen in 2019, I see -- 11 I see areas of concern. 12 I can't recall if those were specifically 13 addressed in our meeting with Dean Wood; but we would 14 have certainly seen them in our review, the members of 15 the Committee's review of the case. 16 Q. Well, let's look at Exhibit 2. 17 A. Which is Exhibit 2? 18 Q. It's -- I had put it up there before. So it 19 should be either on your computer or -- 20 A. Faculty Report -- so I have one, two, three -- 21 it looks like I have six documents from you. Which one 22 are you -- 23 Q. The one that starts EX2. 24 A. EX2. Oh, I see it. I'm sorry. Okay. 25 Sorry. For some reason I'm not finding</p>

<p>110</p> <p>1 it. Let me try to click on it again.</p> <p>2 Q. You had mentioned that it was hard -- it</p> <p>3 wasn't opening, and then it opened, the first time you</p> <p>4 approached it.</p> <p>5 A. So this is the -- it starts with the cover</p> <p>6 page on Recommendation for Change in Academic Rank?</p> <p>7 Q. Yes, uh-huh.</p> <p>8 A. Okay. Yes, I have the document.</p> <p>9 Q. Okay. Look at page 3 of 5 there.</p> <p>10 A. Yes.</p> <p>11 Q. I see the factual recitation there.</p> <p>12 A. Yes.</p> <p>13 Q. But no comments, no explanations, no context</p> <p>14 within the field?</p> <p>15 A. That is correct.</p> <p>16 Q. Okay. So -- and going back to Exhibit 36,</p> <p>17 there is some discussion in there about context. So I'm</p> <p>18 just trying to understand where your negative assessment</p> <p>19 of her publication fits within the context of her</p> <p>20 performance and the P&amp;T Committee's positive unanimous</p> <p>21 vote in support of her promotion based upon -- in part,</p> <p>22 on her publications?</p> <p>23 A. Well, there's no context in the -- in that</p> <p>24 summary from the P&amp;T Committee about how the number of</p> <p>25 journal articles, and the number of peer-reviewed</p>	<p>112</p> <p>1 Q. And that information is not in Dean Wood's</p> <p>2 assessment that you would have had to then be able to</p> <p>3 ask questions about?</p> <p>4 A. The information was not in Dean Wood's</p> <p>5 summary, but we had the entire dossier in front of us to</p> <p>6 see the information.</p> <p>7 Q. Yeah, you have the entire dossier for</p> <p>8 everybody; but the policy still requires the Dean to</p> <p>9 provide the information supporting the P&amp;T Committee's</p> <p>10 vote as a -- an assistant to the President and the</p> <p>11 President's Committee so that they don't have to go line</p> <p>12 by line through the dossier, correct?</p> <p>13 A. That is not correct.</p> <p>14 Q. Okay. So correct me.</p> <p>15 A. Two points: We expect members of the</p> <p>16 President's Committee to review the entire dossier.</p> <p>17 That may not be every single line in a several-hundred-</p> <p>18 page document; but there is thorough review among the</p> <p>19 five members, especially on key issues that get</p> <p>20 identified at various levels.</p> <p>21 We do not expect the Dean to summarize</p> <p>22 everything that's in the dossier because we have the</p> <p>23 dossier available to us. We ask for a concise statement</p> <p>24 to support their recommendation.</p> <p>25 My understanding and my recollection of</p>
<p>111</p> <p>1 conference proceedings compare. And so that -- and</p> <p>2 there's nothing about context of research funding, which</p> <p>3 are the two areas that -- as I've looked at the record</p> <p>4 again, and -- and recognizing that we would have seen</p> <p>5 that same record two years ago, were the main concerns.</p> <p>6 Q. You don't see context where it talks about the</p> <p>7 conference papers and the accepted rate and the H score,</p> <p>8 the H index?</p> <p>9 A. No, I don't see context. It's a factual</p> <p>10 statement about the number of publications, factual</p> <p>11 statement about being published. The majority of her</p> <p>12 work, not all of her work, being published in</p> <p>13 competitive peer-reviewed conference proceedings.</p> <p>14 There's no context there of how -- what the expectations</p> <p>15 are and the citation is given without context, but a</p> <p>16 later statement that H index and citations are slightly</p> <p>17 lower than total citations and likely different due to</p> <p>18 time and effect since Professor Nikolova received her</p> <p>19 Ph.D. But then that raises the question of who they're</p> <p>20 comparing to because I believe she would have been ten</p> <p>21 years past her Ph.D.</p> <p>22 Q. Questions that could be asked but weren't?</p> <p>23 A. Well, as I said, this is the first time I've</p> <p>24 seen this document; but my answer is: I don't see a lot</p> <p>25 of context in this summary.</p>	<p>113</p> <p>1 the policy is the Dean needs to be present to hear the</p> <p>2 reasons for the P&amp;T Committee's vote and any -- and</p> <p>3 any -- and their view of the case. I don't recall any</p> <p>4 specifics about the requirement to summarize the P&amp;T</p> <p>5 discussion in detail.</p> <p>6 Q. Would you agree that it would be inappropriate</p> <p>7 or in violation of the policy and procedures of UT for</p> <p>8 the Dean to simply receive notes from the P&amp;T Committee</p> <p>9 and not be present for the discussion?</p> <p>10 A. I would have to review the documents whether</p> <p>11 this is a policy requirement, or a recommendation, or an</p> <p>12 expectation.</p> <p>13 Q. But didn't you just testify that the</p> <p>14 expectation is that the deans are expected to be in the</p> <p>15 P&amp;T --</p> <p>16 A. I think it's the expectation. Now, whether</p> <p>17 it's a violation if they aren't -- I can't answer</p> <p>18 without looking at the policy.</p> <p>19 Q. Okay.</p> <p>20 MR. NOTZON: Let's go ahead and take a</p> <p>21 quick break. I need a restroom break, and I need to</p> <p>22 find a document.</p> <p>23 THE REPORTER: We're going off the record</p> <p>24 at 1:40 p.m.</p> <p>25 (Off the record from 1:40 to 1:46 p.m.)</p>

<p style="text-align: right;">114</p> <p>1 THE REPORTER: We're going back on the  2 record at 1:46 p.m.  3 Q (BY MR. NOTZON) Okay. I'm putting Exhibit 38  4 up.  5 (Exhibit 38 marked.)  6 A. Yes, I see the General Guidelines For  7 Promotion and Tenure.  8 Q. (BY MR. NOTZON) For the year that would apply  9 for Dr. Nikolova's consideration for tenure?  10 A. Correct.  11 Q. Okay. So this would be the right document to  12 be looking at to determine what the policies and  13 procedures are related to the Dean's participation in  14 the P&amp;T Committee procedures, correct?  15 A. Correct. Correct.  16 Q. Okay. And that would be found on page 8; is  17 that right?  18 A. Yeah. Are you talking about Section 4 on that  19 page?  20 Q. Yes, at the top of the page.  21 A. Correct.  22 Q. Okay. So it would be a violation for the Dean  23 not to be present, correct?  24 A. These are -- these are guidelines. It would  25 a -- it would be contrary to the guidelines.</p>	<p style="text-align: right;">116</p> <p>1 recommendation was different than the P&amp;T Committee's.  2 Q. (BY MR. NOTZON) But you don't remember what  3 that was?  4 A. I don't remember the specifics of a discussion  5 two years ago.  6 Q. And do you recall in your conversation with  7 the President's Committee whether Dean Wood was present?  8 A. Whether Dean Wood was present where?  9 Q. Remember, earlier you said that when the  10 President's Committee is discussing the candidates --  11 A. Oh, I see what you're saying. So the dean,  12 Dean Wood, was certainly present when we discussed the  13 case with her. We would always have a discussion if  14 there was a case for do not promote.  15 Q. Let me -- let me complete my question.  16 Obviously, she was there when she was talking to you  17 about the case. I'm asking if she was there for the  18 conversation and discussion that occurred after she made  19 her presentation.  20 A. So this is -- when we changed -- so I do not  21 remember the date when we changed the procedure. So I  22 can't -- I can't answer the question without some  23 information on did we change it that year, or was it  24 afterwards.  25 Q. Do you recall if Dean Wood was present when</p>
<p style="text-align: right;">115</p> <p>1 Q. Okay. And it also talks about the nature of  2 the Dean's communication of what occurred in the P&amp;T  3 discussions; although, not a summary, it is a fair  4 rationale?  5 A. That's what the guidelines say.  6 Q. Okay. So merely providing a summary wouldn't  7 be a fair rationale, would it?  8 A. I think that was a fair statement of the -- of  9 the summary of the P&amp;T doc -- Committee document that I  10 saw, and it's typical of what we see in Dean's letters.  11 Q. So it's -- there's never an occasion where you  12 ask for more information?  13 A. There -- there, again, with the 800 cases I've  14 reviewed on the President's Committee, there were cases  15 that we asked for, in the meeting with the Dean, some  16 more specifics if there were questions about the P&amp;T  17 Committee's assessment.  18 Q. I mean, especially in light of the unanimous  19 support that Dr. Nikolova got from the P&amp;T Committee,  20 you would want to have some understanding from Dean Wood  21 why they were so positive and she so negative, correct?  22 MR. DOWER: Objection, form.  23 A. We would -- we certainly would have had a  24 discussion. I don't recall the specifics, but we  25 certainly would have a discussion of why her</p>	<p style="text-align: right;">117</p> <p>1 you took a poll of the President's Committee?  2 A. Well, that would be the -- that's the same  3 thing. The poll and the discussion of the committee, up  4 to a certain point, was done in the presence of the  5 Dean. At some point we changed the procedure -- and it  6 may be for this case and this year -- she was present  7 for our meeting with her but was not present for the  8 poll and my decision.  9 Q. Do you recall the poll for Dr. Nikolova's  10 case?  11 A. I do not.  12 Q. Do you recall any comments from any of the  13 other four members of the committee?  14 A. I do not.  15 Q. Do you remember if there was a split in the  16 committee?  17 A. I don't remember.  18 Q. Do you recall if there was a concern about the  19 case being accelerated or early?  20 A. I do not recall that being part of the  21 discussion. The discussion was primarily on  22 Dr. Nikolova's research funding record, trajectory --  23 and I'm almost certain that was the major part of the  24 discussion -- and then, also, the publication record.  25 Q. So the fact that Dr. Nikolova was early or</p>

<p style="text-align: right;">118</p> <p>1 accelerated was not one of the reasons why you decided 2 to deny tenure? 3 A. That is correct. 4 Q. So if she was to go up for tenure -- if that 5 happened to have been her up-or-out year, you would have 6 issued a termination -- a terminal appointment? 7 A. I can't speculate on what the decision would 8 have been with a different fact set and different 9 timing. 10 Q. Well, I thought you said earlier that there is 11 no different standard; and, therefore, the timing is -- 12 of her going up wouldn't necessarily have a role to play 13 in your decision? 14 A. The -- the way I'm going to answer that 15 question is: We did not have to make a terminal -- a 16 decision on a terminal appointment because under UT 17 Austin's rules, this was -- there was still time in the 18 probationary period. So the best way to describe it is, 19 the case was not ripe for a review to make a decision to 20 promote or terminal appointment. 21 Q. I'm having trouble understanding, Dr. Fenves, 22 when you say it's not ripe for review because you are 23 reviewing her case at that time and making a decision 24 whether to grant tenure or not based upon her 25 performance.</p>	<p style="text-align: right;">120</p> <p>1 it was early, falls into this category that Dr. Nikolova 2 had been a professor, assistant professor for six years 3 by the tenure clock; and so that was sufficient why now 4 to consider this in a normative time of six years for an 5 assistant professor. 6 Q. So the question was answered affirmatively? 7 A. The question was answered -- the best way to 8 describe it -- implicitly because we could see that she 9 had six years as assistant professor. The data that is 10 presented is publication records and research funding as 11 an assistant professor for six years in rank. 12 Q. So that would have been sufficient for her to 13 get tenure if, in your opinion, she had better funding 14 sustainability and trajectory and publication records? 15 A. That was sufficient for her to be considered 16 at this time as early promotion under UT Austin rules. 17 I can't speculate if she had additional funding, if she 18 had additional papers, what the decision would have been 19 because it would depend on the facts presented at the 20 time. 21 Q. When you say she wasn't ripe for 22 consideration, that, to me, indicates that she is not -- 23 that she's too -- too early; she didn't answer the early 24 question. How do you view the term "ripe" in any other 25 way?</p>
<p style="text-align: right;">119</p> <p>1 A. And we did not feel the performance, 2 particularly in research, funding, and trajectory and 3 publications was ready to make that affirmative decision 4 to promote to tenure. 5 Q. How would it have -- how would it have changed 6 if she was in her up-or-out year? 7 A. We would have had to make a decision to 8 promote or a terminal appointment. 9 Q. So the added factor of her being kicked out of 10 the department or not would be in play? Sympathy would 11 have been a -- 12 A. I don't -- so when a -- under the UT Austin 13 rules, when a case is presented to the President's 14 Committee early, before the end of probationary period, 15 there is an option if the Committee and the President 16 does not feel the case warrants promotion, to come back 17 without prejudice for consideration. When that happens, 18 then there's another year or two years or however many 19 years left on the probationary period to give more 20 confidence that the standards have been met; and 21 particularly in this case, research funding will be 22 sustainable and have a positive trajectory. 23 Q. In this case, in Dr. Nikolova's case, the 24 question of why now, was that answered? 25 A. So this was -- the question of why now, since</p>	<p style="text-align: right;">121</p> <p>1 A. We can -- so the typical approach was for 2 assistant professors -- an assistant professor who had 3 service at other universities, which we like to see -- 4 we like to recruit talented faculty that already have 5 demonstrated a record as an assistant professor, bring 6 them to UT -- in this case, we've looked at the record 7 over six years as an assistant professor that were 8 counted four in rank at UT Austin and two at Texas A&amp;M. 9 We did not feel -- I should say, I did 10 not feel, as President, based on the information that 11 was presented in the dossier, the discussion with the 12 Dean, until whatever deliberations -- I don't recall the 13 specifics -- that took place with the University 14 Committee, that there were -- that there was sufficient 15 confidence in research funding, trajectory, and 16 publications. 17 So as a committee we have a choice. We 18 could say do not promote, which was the decision in this 19 case, without prejudice, to have more time to build 20 that -- build that case; or we could have made the 21 decision that six years as an assistant professor, we're 22 going to consider that an up-and-out year and issue a 23 terminal appointment. That was not the recommendation 24 of the Dean. That was not my decision as President. 25 And I can't recall, ever, a situation where we would</p>

<p style="text-align: right;">122</p> <p>1 have done that, that we would give the faculty member  2 the benefit of the doubt, additional time to make a  3 case.  4 So, in summary, that's what I mean. With  5 the facts presented, the timing of this particular case,  6 it wasn't ready for a promotion decision or a terminal-  7 appointment decision.  8 Q. Well, not ready for promotion is different  9 than not ripe for consideration, correct?  10 A. It's not ripe -- well, I use the term "not  11 ripe" to make a decision to promote with tenure. That's  12 how I use the decision -- that's how I use the  13 terminology.  14 Q. So Dr. Nikolova had a -- at that time, she had  15 a probationary extension, stop-the-clock, on her record,  16 correct?  17 A. Correct.  18 Q. And -- but even with that, she still met the  19 six years when you combined the A&amp;M time, correct?  20 A. Six years in rank by the way we counted four  21 years at UT Austin -- she had four years in rank at UT  22 Austin -- and we considered the time at Texas A&amp;M. I  23 can't remember if it was two and a half or two, but we  24 would have considered that two years in rank as an  25 assistant professor at Texas A&amp;M, for a total of six</p>	<p style="text-align: right;">124</p> <p>1 A. I don't believe so. She would have been an  2 assistant professor in that hypothetical case of as  3 seven years. We would have looked at the same research  4 record, and we'd have the same concerns about the  5 current funding and the future funding.  6 Q. And the policies and procedures also don't say  7 anything about a heightened standard for an early  8 promotion consideration, correct?  9 A. From the time I was -- began as Dean in 2008,  10 to the entire time I was at UT, the understanding and  11 the guidelines for a promotion case that was submitted  12 before the end of the probationary period had to answer  13 the question of why consider the case now.  14 Q. Right. And provide an explanation, but not a  15 justification?  16 A. Provide a reason why the case should be  17 considered and a decision -- and supporting the  18 recommendation and answer the question -- the -- my  19 predecessor, I remember as Dean, when I presented an  20 early promotion case, the question was, "Why now?" And  21 whenever the President's Committee met with -- had  22 panels, the road shows, the briefings, this was a common  23 question; and there was often, you know, a lot  24 of discussion of examples of how to answer the  25 question "why now" when considering putting a case up</p>
<p style="text-align: right;">123</p> <p>1 years as an assistant professor.  2 Q. So the answer's "yes"?  3 A. Yes.  4 Q. So whether she decided to rescind the  5 probationary extension or not, the decision would have  6 been the same, to not promote?  7 A. So that's a hypothetical, which if she had  8 rescinded the probation for one year, she would have  9 been five years on the -- on the -- five years at UT  10 Austin and two years at Texas A&amp;M, for a total of seven  11 years as an assistant professor. I -- you know, can't  12 say -- the facts that would have been the same, the same  13 concerns about trajectory -- research funding and  14 trajectory and publications would have still been there.  15 I can't say what the decision would have been in that  16 circumstance, but the facts would have been the same and  17 the concerns would have been the same.  18 Q. So she still would have been early?  19 A. Correct.  20 Q. She would have met that answer based upon her  21 years of service, as you just recounted?  22 A. Correct.  23 Q. Is she -- would she have been at a different  24 standard for promotion than if she was -- than she was  25 at four years instead of at five years?</p>	<p style="text-align: right;">125</p> <p>1 early or to -- to justify the reason for cases submitted  2 early.  3 MR. NOTZON: All right. I need to take a  4 quick break again.  5 THE REPORTER: Going off the record at  6 2:07 p.m.  7 (Off the record from 2:07 to 2:17 p.m.)  8 THE REPORTER: We're going back on the  9 record at 2:17 p.m.  10 Q (BY MR. NOTZON) Okay. Dr. Fenves, the --  11 when Dean Wood was presenting Dr. Nikolova's case, did  12 she state that she was present for the P&amp;T Committee  13 discussion; or did you just assume that?  14 A. I don't recall if she stated it. Usually, the  15 deans don't.  16 Q. Don't state it?  17 A. State it.  18 Q. Because it's a requirement?  19 A. Because it's an expectation of the guidelines.  20 Q. And just to close out that one issue,  21 Exhibit 38, the last document, if you could, look at  22 that.  23 A. Yes, I have it.  24 Q. Go to page 3.  25 A. Page 3. Okay.</p>

<p style="text-align: right;">126</p> <p>1 Q. And look at the top there, the last sentence 2 of B, the first paragraph of B. 3 A. Yes, I see it. 4 Q. Okay. And that's just -- that's the guideline 5 that explains -- that says the accelerated consideration 6 should be explained; and it doesn't use the word 7 justified or any other word, correct? 8 A. That's correct, yeah. And, if I may, I also 9 want to say sometimes there's terminology that's a 10 little interchangeable by years in rank and years in the 11 probationary period. So you can see that then says, 12 "Cases considered before the sixth year in rank are 13 accelerated," but the next one is "no later than a six- 14 year probationary period." And we use -- we typically 15 use those terms interchangeably. So when I say "in 16 rank," I'm meaning counted according to the policy as 17 the probationary period. 18 Q. Yeah, in rank at UT? 19 A. At UT, correct. 20 Q. It's ambiguous because there are assistant 21 professors that are ranked at the other institutions as 22 well, but I understand what you're saying. But thanks 23 for the clarification because it can get confusing. 24 So going back to the reasons for denying 25 Dr. Nikolova tenure, the funding sustainability and</p>	<p style="text-align: right;">128</p> <p>1 subsequent page, the following page. 2 Q. Okay. 16339 and 40? 3 A. Correct. 4 Q. Okay. 5 MR. NOTZON: We'll make that Exhibit 39. 6 MR. SCHMIDT: Robert, do you want me to 7 hunt that down and pull out those two pages? 8 MR. NOTZON: That would be great. 9 MR. DOWER: Robert, I may be able to send 10 the full dossier in case, as we go through this, we're 11 jumping around in the dossier; But I don't want to 12 interrupt -- 13 MR. SCHMIDT: I have the full dossier. I 14 could -- I haven't actually uploaded things myself yet 15 on this, but I can probably upload the full dossier if 16 that helps. But it -- there are different numbers. I 17 think I have it at Bates number, like, 1 through 18 something or other. 19 Ben, is your dossier that you have at the 20 same numbers that Dr. Fenves is looking at? 21 MR. DOWER: I believe so. And what that 22 tells me is that we produced to you -- produced the 23 dossier more than once. 24 MR. SCHMIDT: Probably, yeah. 25 MR. DOWER: Yeah.</p>
<p style="text-align: right;">127</p> <p>1 trajectory and publication record, I'd like to get a 2 little more detail from you since you've had an 3 opportunity to go through dossier and the documents. 4 Could you explain what about her funding sustainability, 5 and trajectory into the future was an issue that was too 6 much for you to bear? 7 MR. DOWER: Objection, form. 8 A. I can explain the basis for my statement that 9 we were concerned and I was concerned, as President, 10 about her research funding, current funding and 11 trajectory. 12 Can you pull up the dossier that has the 13 information? 14 Q (BY MR. NOTZON) I have -- I don't have the 15 entire dossier; but focusing on Dean Wood's statement, 16 Exhibit 2, that is in front of you. 17 A. Oh, well, that's -- so if I understand your 18 question, you were asking me what was the basis for my 19 assessment on funding and trajectory. So I would like 20 to go to the dossier since that was reviewed at the time 21 in the case. I have it in front of me, so I can 22 reference it by page number. 23 Q. Sure. Go ahead. What is that? 24 A. So I'm currently looking at the document 25 that was provided to me, UT Austin-0016339, and the</p>	<p style="text-align: right;">129</p> <p>1 President Fenves, does your dossier for 2 her have a change in rank form at the top that starts 3 16304? 4 THE WITNESS: Right. 5 MR. DOWER: Okay. So -- 6 MR. SCHMIDT: And it goes through what 7 page? 8 MR. DOWER: Oh, sorry. 9 MR. NOTZON: Let's go off the record for 10 this discussion. 11 THE REPORTER: We're going off the record 12 at 2:23 p.m. 13 (Off the record from 2:23 to 2:27 p.m.) 14 THE REPORTER: We're going back on the 15 record at 2:27 p.m. 16 (Exhibit 39 marked.) 17 Q (BY MR. NOTZON) Okay. I'm looking at -- oh, 18 the summary sheet. Okay? Research Summary 339 and 40. 19 Okay? 20 A. Correct. 21 Q. Go ahead. 22 A. Could I ask the question be repeated? 23 Q. Sure. I think the question was: Why did you 24 deny tenure on the -- on the basis for funding 25 sustainability and trajectory? And I wanted some</p>



<p>130</p> <p>1 details about that; and you said, "Let me go to the 2 dossier." 3 A. So in engineering, research funding from 4 external sponsors with a high preference, especially in 5 electrical and computer engineering for federal agencies 6 that sponsor research, is a very important criterion for 7 advancement of faculty, including promotion and tenure 8 in faculty advancement. The funding is needed to 9 sustain a faculty member's research program, especially 10 to be able to recruit and support graduate students, 11 which are absolutely essential for recruiting -- the 12 funding is essential for recruiting the best graduate 13 students and supporting them while they are doing their 14 research under the supervision of a faculty member, with 15 the sponsorship of the granting agency. 16 So there's a very high consideration for 17 research funding; and at the time of consideration for 18 promotion to tenure, we like to see a positive 19 trajectory, meaning that over the time of the 20 probationary period, the research portfolio has 21 demonstrated ability to be successful in competitive 22 peer-review grants from federal funding agencies; and 23 is -- Number 2, is sufficient to be able to support a 24 strong research program of a faculty member and we have 25 confidence that after approval of promotion and tenure</p>	<p>132</p> <p>1 October 1st, 2017 to September 30th, 2021. This is the 2 only active grant that she had in the next academic 3 year. The funding level, I would call very modest. Her 4 portion was \$479,000 for a four-year period, so roughly 5 \$120,000 of grant funding a year, which is -- especially 6 in ECE, it's a very modest level of funding. 7 If we go to Table 3, those are grants 8 that she had received that had already been completed 9 and no longer active and so couldn't support research. 10 Table 4 is Pending External Grants and 11 Contracts. Typically, at the time of promotion, we 12 would like to see the faculty member have a good 13 pipeline of pending grants that's showing active 14 research; it's showing turning research ideas into 15 proposals for funding agencies and -- and gives us 16 confidence that there's not only sustainability at the 17 current level, which, based on these funding numbers, is 18 modest; a trajectory that's improving, which is what we 19 would like to see for faculty at the associate professor 20 rank. 21 Table 4, which is the information we had 22 at the time the case was considered, has one pending 23 grant. This is from the Department of Energy. I don't 24 know the specifics of this program, but this looks like 25 a total funding level of \$10 million and a large number</p>
<p>131</p> <p>1 that that will continue through evidence of submitting 2 proposals and successful grants for a number of years 3 past the promotion case. So that's the reason that this 4 is important. 5 Now, looking at page 166 -- excuse me -- 6 16339 in Table 2, Table 2 is a listing of Dr. Nikolova's 7 current external grants -- so sometimes we refer to 8 those as extramural grants -- from funding agents and 9 contracts awarded. There are three that are listed in 10 that table. 11 The first one, the grant period was 12 essentially over at the time. It ended in 9/30/2018, so 13 essentially over at the time of the review. 14 The second grant, the CAREER award that 15 Dr. Nikolova had received, a very prestigious award from 16 the National Science Foundation, received while she was 17 at Texas A&amp;M, was going to expire in April 30th, 2019. 18 So, again, I'd have to look at the timing; but that 19 would -- that would be about the -- about the time this 20 case was being considered and before September 1st, 21 2019. So if she were to be promoted, that grant would 22 have expired. 23 The only active grant that Dr. Nikolova 24 would have -- would have had in the next year was an 25 NSF-funded grant that would have -- it went from</p>	<p>133</p> <p>1 of coinvestigators. This would be what would be called 2 a center-type grant, that was not based at UT Austin. 3 So the PI appears to be at the University 4 of Minnesota and had agreed, if funded, to have a 5 subcontract to Dr. Nikolova UT Austin. The funding 6 level over a four-year period, if it had been granted -- 7 and we would know by now; I don't know what the status 8 of that grant application was -- would have been 9 \$400,000, or about a hundred thousand dollars a year. 10 So as the Committee would have reviewed 11 this same document at that time, we would have seen a 12 modest level of current funding at about 120,000 a year. 13 We would have seen only one grant pending at even a 14 slightly lower funding level. So these were the 15 concerns about the level of funding and the trajectory. 16 Q. And were any considerations made as between 17 the applied and theoretical distinction of her research? 18 A. So, yes, there are. So we use a different set 19 of terms. We think of experimental or laboratory-based 20 research compared with theoretical or computational- 21 based research; and, certainly, for experimental and 22 lab-based research, there's much higher funding levels 23 needed to operate a lab. 24 She does theoretical and 25 computational-based research, which is a much lower</p>



<p>134</p> <p>1 level; but there is still the expectation that they are</p> <p>2 supporting graduate students. Depending on the</p> <p>3 particulars, an annual support for a graduate student</p> <p>4 can be 60- to \$80,000 a year. So the rule of thumb is</p> <p>5 about \$100,000 a year can support one graduate student</p> <p>6 because there are other cost associated beyond the</p> <p>7 graduate student.</p> <p>8 Q. And how many graduate students was she</p> <p>9 supporting in her time at UT prior to being considered</p> <p>10 for tenure?</p> <p>11 A. So at the time I'd have to go back and refer</p> <p>12 to -- and I -- if it's in here. So I have to find out.</p> <p>13 She had a number of graduate students. Some of them</p> <p>14 were supported by the Department, which is often done</p> <p>15 for assistant professors to help them get started on a</p> <p>16 research program; but as a faculty member develops their</p> <p>17 research program and becomes tenured, the Department</p> <p>18 can't support all the graduate students for the faculty</p> <p>19 member. So I don't know how many were specifically</p> <p>20 funded off of her current grant at the time the case was</p> <p>21 considered.</p> <p>22 Q. Do you know if there was any consideration</p> <p>23 made regarding any changes to the field during this</p> <p>24 period of time that reduced funding from federal</p> <p>25 agencies in the 2016 to 2020 time period?</p>	<p>136</p> <p>1 Q. Well, wait. Before we go there, the statement</p> <p>2 that you said about funding sustainability and</p> <p>3 trajectory, that's also included in Dean Wood's</p> <p>4 assessment; is that correct, Exhibit 2?</p> <p>5 A. Exhibit 2. Let me come back to that.</p> <p>6 Q. If you look on page 4, the top of page 4.</p> <p>7 A. She does say, "I have concerns about the</p> <p>8 sustainability of her research program. These concerns</p> <p>9 are compounded by the fact that both her teaching and</p> <p>10 her external funding have dropped since she spent the</p> <p>11 sabbatical semester at Berkeley in 2015."</p> <p>12 Q. Okay. And so that is in line with what you're</p> <p>13 saying?</p> <p>14 A. That's consistent with -- with my testimony.</p> <p>15 Q. Okay. And you had said that part of your</p> <p>16 decision-making was in compliance with what Dean Wood's</p> <p>17 recommendation was?</p> <p>18 A. We were in agreement on this point.</p> <p>19 Q. Okay. All right. Go ahead and move to the</p> <p>20 publications.</p> <p>21 A. Uh-huh. So if I reference the same page in</p> <p>22 the research summary, the first table, Table 1, on</p> <p>23 research summary --</p> <p>24 Q. Okay.</p> <p>25 A. -- at the time the case was considered --</p>
<p>135</p> <p>1 A. I don't recall any discussion. Her work on</p> <p>2 network analysis is a very hot topic. So I don't think</p> <p>3 there was any discussion that this was a subject that --</p> <p>4 topic in an area of research that was going to decline</p> <p>5 soon in interest and importance and attention from</p> <p>6 federal funding agencies.</p> <p>7 Q. And do you know if Dr. Nikolova was told at</p> <p>8 her initial review whether or not her funding was</p> <p>9 insufficient at that time and needed to be augmented?</p> <p>10 A. Could I ask you to clarify what you mean by</p> <p>11 initial review?</p> <p>12 Q. The mid --</p> <p>13 A. Third-year review? I don't know. I'd have to</p> <p>14 go -- it's in the dossier. I'd have to go back and</p> <p>15 refer to the third-year -- the third-year report.</p> <p>16 Q. Okay. So closing out the detail that you're</p> <p>17 providing on the basis for denying tenure on the funding</p> <p>18 sustainability and trajectory issue that you had, is</p> <p>19 there anything else that you want to add to that</p> <p>20 testimony?</p> <p>21 A. Not related to funding.</p> <p>22 Q. Okay. Let's go ahead and move to the</p> <p>23 publication record detail supporting your -- that you</p> <p>24 based your decision to deny tenure on.</p> <p>25 A. Uh-huh, okay.</p>	<p>137</p> <p>1 Q. Just to be clear -- just to be clear,</p> <p>2 Dr. Fenves -- sorry -- it's Exhibit 39; and we're on</p> <p>3 page -- we're still on page 16339?</p> <p>4 A. Correct.</p> <p>5 Q. Okay.</p> <p>6 A. So the top two lines in Table 1 showed that</p> <p>7 Professor Nikolova has published -- had published three</p> <p>8 papers in time and rank; and in this context, time and</p> <p>9 rank means time as an assistant professor at UT and</p> <p>10 Texas A&amp;M. And we can go back to her CV and count the</p> <p>11 three papers. She has papers before she joined A&amp;M</p> <p>12 during her time as a post-doctoral researcher at MIT.</p> <p>13 Peer-reviewed conference proceedings as an assistant</p> <p>14 professor, A&amp;M and UT, a total of 18.</p> <p>15 Now this -- in her field, in</p> <p>16 optimization, computer science weight finding, there is</p> <p>17 a strong outlet, important outlet in referee conference</p> <p>18 proceedings; but journal publications are also</p> <p>19 important. Those are journals of record and that --</p> <p>20 much more so than conference proceedings, which tend to</p> <p>21 be a more fast-moving, fast-changing field, like she was</p> <p>22 working in; they're also highly-funded fields, in</p> <p>23 reference to an earlier question.</p> <p>24 Three journal papers is a low number; and</p> <p>25 in combination with 18 referee conference papers is a</p>

<p style="text-align: right;">138</p> <p>1 generally -- is a modest -- is a modest number is the</p> <p>2 way I'll say it. So there's nothing -- there was</p> <p>3 nothing obvious that this is a strong publication record</p> <p>4 that was getting the results of research out into the</p> <p>5 field and the profession.</p> <p>6 Q. Okay. Anything else --</p> <p>7 (Simultaneous speakers.)</p> <p>8 A. I'm sorry.</p> <p>9 Q. Go ahead.</p> <p>10 A. The total citations -- and this is a</p> <p>11 somewhat -- there are different ways of measuring</p> <p>12 citations. What are citations? That means other papers</p> <p>13 are referencing specifically the work of the author, in</p> <p>14 this case, Professor Nikolova. They're a measure of</p> <p>15 impact. Web of Science is one measure. Google Scholar</p> <p>16 is much more encompassing; although, we tend to use that</p> <p>17 more now because it's more easily accessible.</p> <p>18 Under a thousand citations is an -- is an</p> <p>19 okay record. It's not spectacular, and I think there</p> <p>20 were some comments about that we showed -- that we</p> <p>21 looked at in the review of the P&amp;T Committee. But those</p> <p>22 are total citations including work done prior to</p> <p>23 becoming an assistant professor, and I think Dean Wood</p> <p>24 had a footnote that 130 or so of the citations were from</p> <p>25 some highly-cited work that she had done at MIT, with</p>	<p style="text-align: right;">140</p> <p>1 context that Dr. Nikolova's productivity and publication</p> <p>2 is substandard or mediocre in the field?</p> <p>3 A. I didn't say substandard or mediocre. I said</p> <p>4 it is -- it is --</p> <p>5 Q. Not acceptable for tenure?</p> <p>6 A. It's not acceptable for tenure is the best way</p> <p>7 to do it.</p> <p>8 (Simultaneous speakers.)</p> <p>9 A. Okay. So the practice in electrical computer</p> <p>10 engineering is the chair of the department, Dr. Tewfik,</p> <p>11 would do an analysis; and that is in the dossier. And</p> <p>12 so, you know, we would look at that. So that's -- that</p> <p>13 is in the dossier.</p> <p>14 Q. Okay. And -- and can you pull that up and</p> <p>15 show where he criticizes her productivity in</p> <p>16 publications in context --</p> <p>17 A. He does not criticize it. He has a favorable</p> <p>18 comparison.</p> <p>19 Q. Okay. So where is -- where is the evidence</p> <p>20 that, in her field, in her specific genre, that her</p> <p>21 productivity in publications is lacking, compared to</p> <p>22 others?</p> <p>23 A. It's based on multiple levels of review,</p> <p>24 having reviewed lots of cases over the years, our</p> <p>25 understanding of what the expectations are.</p>
<p style="text-align: right;">139</p> <p>1 her post-doctoral sponsor, I assume, prior to becoming</p> <p>2 an assistant professor.</p> <p>3 So this was, overall, a modest measure of</p> <p>4 impact through -- through citations.</p> <p>5 Q. Okay. Anything else?</p> <p>6 A. On publications, no.</p> <p>7 Q. Okay. So to follow up on these issues, I</p> <p>8 don't see any context here where you say that's not good</p> <p>9 for someone in her field.</p> <p>10 A. Uh-huh.</p> <p>11 Q. I don't see any context where someone who has</p> <p>12 gotten tenure at -- in the same exact field as her at</p> <p>13 some other peer institution had substantially more --</p> <p>14 double, triple, whatever, anything like that -- as a</p> <p>15 basis to criticize her productivity.</p> <p>16 A. So this is based on many years of promotion</p> <p>17 and tenure. The Dean -- I don't know how many cases</p> <p>18 they were doing in engineering; somewhere between 20 and</p> <p>19 30. So there's a -- there's a -- we have a good</p> <p>20 understanding, reading -- a good understanding of what</p> <p>21 the expectations are; and the external letters are also</p> <p>22 factors that we look at in providing that context.</p> <p>23 Q. Would it be accurate what I said? Is that</p> <p>24 true that there are no statements putting these numbers,</p> <p>25 this publication productivity that you criticized, into</p>	<p style="text-align: right;">141</p> <p>1 Q. That includes the review of the Budget</p> <p>2 Council, the Chair, the P&amp;T Committee, all of whom have</p> <p>3 this wealth of experience in reviewing tenure cases,</p> <p>4 too, correct?</p> <p>5 A. They had a lot of experience; and in this</p> <p>6 case, I disagreed with them.</p> <p>7 Q. And I'm trying to find the data that goes</p> <p>8 beyond you saying, "Trust me. I know that this</p> <p>9 productivity for this area is not enough," whereas, all</p> <p>10 these other people -- and I would argue that the Budget</p> <p>11 Council is a lot closer to her area of expertise than</p> <p>12 you are about their acceptance of that productivity.</p> <p>13 So that's what I'm trying to ask you.</p> <p>14 Where is the objective evidence that your assessment</p> <p>15 that it's not good enough is based on?</p> <p>16 MR. DOWER: Objection, form.</p> <p>17 A. This is a -- this is a qualitative assessment</p> <p>18 that takes place at the University President's -- at the</p> <p>19 President's Committee -- I use those terms</p> <p>20 interchangeably -- subjective assessment based on our</p> <p>21 years of experience of looking at cases.</p> <p>22 Q. (BY MR. NOTZON) Okay. So we have to take</p> <p>23 your word for it?</p> <p>24 MR. DOWER: Objection, form.</p> <p>25 A. My decision is based on the years of</p>

<p>142</p> <p>1 experience in looking at cases and what the expectations 2 are for promotion and tenure at UT Austin. 3 Q. (BY MR. NOTZON) So that would be a "yes" to 4 my question? 5 MR. DOWER: Objection, form. 6 A. Could you repeat the question? 7 Q. (BY MR. NOTZON) Sure -- or let me ask it a 8 different way. My prior question was that we have to 9 take your word for it. Asking it in a different way, 10 you don't have any evidence, data, to compare 11 Dr. Nikolova's productivity in publication that you say 12 is insufficient for tenure that we can look at to 13 compare her to someone else or some other people that 14 received tenure that had substantially more productivity 15 than her? 16 A. That's correct. I don't have specific data 17 that I based my professional judgment on over years of 18 experience. 19 Q. And we don't have any evidence that you have a 20 basis for understanding what her productivity -- why her 21 productivity that's on the page here in Exhibit 39 is 22 somehow less than somebody else that would be in her 23 field? 24 A. I don't have the specific data for that. 25 Q. And you didn't have it back in 2019, either,</p>	<p>144</p> <p>1 A. So this would be 16405 and 16406. 2 Q. Go ahead. 3 A. So this is from Patrick Jaillet, who I don't 4 know; but I do know he's a senior faculty member at 5 Massachusetts Institute of Technology. So, first of 6 all, in his overall comments -- he has a number of 7 comments -- and let me preface this by saying, having 8 read thousands of letters and -- not as active as I 9 used to be -- but writing letters of evaluation for 10 decades, there's a typical terminology that many letter 11 writers -- not all -- but many letter writers use that 12 has a progression to evaluate some aspect of a case. 13 And so that typical language is weak, modest, solid, 14 strong, outstanding, exceptional, typically is what 15 you'll see as the language. So, again, weak, modest, 16 solid, strong, outstanding, exceptional; and so that's 17 typically the kind of gradation of evaluation that they 18 would use. 19 And so Jaillet sees her overall record to 20 be a strong one. So, you know, it's -- that's sort of 21 in the upper range there; but it's not outstanding. 22 "Her publication record is very good." My 23 interpretation is that that's a fairly weak statement 24 about her publication record, very good, because, again, 25 if you go through that -- that progression. "Contains</p>
<p>143</p> <p>1 did you? 2 A. Yeah. In 2019 I did not have that data, nor 3 do I have it now. 4 Q. All right. Is there anything else that you 5 would point to -- to that you relied on to decide not to 6 provide Dr. Nikolova tenure -- 7 A. Well, the external letter -- I'm sorry. 8 Q. -- in agreement with Dean Wood? 9 A. So the external letters are very important at 10 each step of the evaluation, but it's something that the 11 President's Committee pays a lot of attention to; and 12 there were some concerning statements in some, not all, 13 but some of the external letters. 14 Q. All right. Do you want to point those out to 15 me? 16 A. I have the dossier in front of me if you want 17 to pull up the documents. 18 Q. Well, I don't know which ones you're talking 19 about. So -- 20 A. So it's -- 21 Q. -- if relying on some external reviewers, then 22 please point them out to us. 23 A. So let me start with the letter from MIT. 24 Q. And just give us the Bates number at the 25 bottom. This is all in Exhibit 39.</p>	<p>145</p> <p>1 solid papers," now, solid papers are, to me, are average 2 or a little bit above average. They're meaningful, but 3 just at about average or a little above average. Then 4 getting to research funding, "She has a good track 5 record." You know, again, that's a fairly -- that is 6 not a strong recommendation, a good track record. And, 7 "Seems to be a talented mentor," but that has to do with 8 graduate instruction. 9 Then he begins his conclusion at the 10 bottom of 6 -- 16405, "I'd say that her record is on par 11 with recently tenured cases." So "on par," again, I do 12 not interpret that as a -- as a terribly strong 13 recommendation. 14 And then he goes on to say he would put 15 her in the top 20 percent of those who have been 16 evaluated and subsequently received tenure. So that's 17 good, but it's -- we often see recommendations that put 18 a percentage in the top 2 percent, 5 percent, 10 19 percent. So 20 percent is not a terribly strong case; 20 and, of course, he doesn't provide any specifics. 21 So that's the MIT letter. 22 Q. Hold on -- 23 A. Okay. 24 Q. -- before we go to the next one. He's saying 25 on par with people that received tenure --</p>

<p style="text-align: right;">146</p> <p>1 A. Yeah.</p> <p>2 Q. -- at peer institutions?</p> <p>3 A. Uh-huh.</p> <p>4 Q. Correct?</p> <p>5 A. That he's had to review. He gives some</p> <p>6 examples that are peer institutions, that's correct.</p> <p>7 Q. Georgia Tech, USC, MIT, and Northwestern are</p> <p>8 all peer institutions, correct?</p> <p>9 A. Correct.</p> <p>10 Q. They're in the top 10 or 15 percent nationwide</p> <p>11 programs, correct?</p> <p>12 A. Northwestern, I'm not sure about; but the</p> <p>13 other three, yes.</p> <p>14 Q. Okay. And when he says he's on -- she's on</p> <p>15 par with those tenure cases, where does it say that she</p> <p>16 needs to be better than people that receive tenure at</p> <p>17 peer institutions?</p> <p>18 A. He's not saying that. It's just -- he's --</p> <p>19 on -- "on par" means -- to me, is about average; and --</p> <p>20 you know, and coupled with the comments on the</p> <p>21 publications and the research funding and then the</p> <p>22 trajectory question -- I left that off, the next</p> <p>23 paragraph -- "Trajectory is very good." That, again, is</p> <p>24 not a strong recommendation.</p> <p>25 MR. NOTZON: Object as nonresponsive.</p>	<p style="text-align: right;">148</p> <p>1 record at 3:00 p.m.</p> <p>2 Q (BY MR. NOTZON) Okay. Dr. Fenves, just to</p> <p>3 complete this --</p> <p>4 MR. DOWER: Oh, are we good, Bob?</p> <p>5 Sorry. I think Bob --</p> <p>6 MR. SCHMIDT: I just -- I just now got</p> <p>7 on, so thank you. Yeah.</p> <p>8 MR. NOTZON: Okay.</p> <p>9 Q (BY MR. NOTZON) All right. Professor -- I</p> <p>10 mean, Dr. Fenves, completing the Professor Jaillet's</p> <p>11 letter, you said you don't know this guy. Have you ever</p> <p>12 reviewed his letters for other candidates?</p> <p>13 A. I can't recall that, but it's highly likely</p> <p>14 that his letters have been -- he had letters for other</p> <p>15 candidates, but I don't recall them.</p> <p>16 Q. And you didn't compare his letters for other</p> <p>17 candidates with this letter, correct?</p> <p>18 A. I did not.</p> <p>19 Q. And so this -- this thousands of letters that</p> <p>20 you've reviewed, there's no handbook of terminology that</p> <p>21 exists out there, right? This is -- this is your</p> <p>22 seat-of-the-pants assessment of this letter, correct?</p> <p>23 MR. DOWER: Objection, form.</p> <p>24 A. There is no handbook, that is correct. I've</p> <p>25 been involved with promotion and tenure cases for over</p>
<p style="text-align: right;">147</p> <p>1 Q. (BY MR. NOTZON) My question is that it's on</p> <p>2 par with people that received tenure. Where -- my</p> <p>3 question is: Where does it say at UT that to get tenure</p> <p>4 at UT, you've got to be above the people that get tenure</p> <p>5 at peer institutions?</p> <p>6 A. It doesn't say that.</p> <p>7 Q. Okay. So -- so when you say "average," she's</p> <p>8 not an average performer in the field. She is on par</p> <p>9 and average with other people that receive tenure at</p> <p>10 peer institutions, correct?</p> <p>11 A. That's what the statement says, correct.</p> <p>12 Q. Okay. And then he says, "I offer my full</p> <p>13 support." Is that also a negative comment?</p> <p>14 A. So we often see recommendations like that. We</p> <p>15 aren't asking for them -- we're asking for their</p> <p>16 assessment; we're not asking for their recommendation.</p> <p>17 Q. So you don't see those as the same thing?</p> <p>18 A. No.</p> <p>19 Q. All right.</p> <p>20 MR. NOTZON: Let me take a quick break</p> <p>21 again.</p> <p>22 THE REPORTER: We're going off the record</p> <p>23 at 2:58 p.m.</p> <p>24 (Off the record from 2:58 to 3:00 p.m. )</p> <p>25 THE REPORTER: We're going back on the</p>	<p style="text-align: right;">149</p> <p>1 30 years, most of that with engineering faculty and in</p> <p>2 my role on the President's Committee have seen at least</p> <p>3 4,000 letters.</p> <p>4 Q. (BY MR. NOTZON) So you're -- you should be</p> <p>5 really good at math because you're an engineer, right?</p> <p>6 MR. DOWER: Objection, form.</p> <p>7 You can answer.</p> <p>8 A. I am an engineer. My math skills have</p> <p>9 degraded with time.</p> <p>10 (Laughter.)</p> <p>11 Q (BY MR. NOTZON) But concepts -- mathematical</p> <p>12 concepts are right up your alley?</p> <p>13 A. I'm -- I'm proficient in math.</p> <p>14 Q. Yes. And -- and you're proficient at reading</p> <p>15 promotional review letters from references?</p> <p>16 A. I believe I am.</p> <p>17 Q. Okay. Would it be accurate that different</p> <p>18 people use different terminology in different ways?</p> <p>19 A. That is correct.</p> <p>20 Q. How do you get -- when he says she's on</p> <p>21 par with recently-tenured cases, as average, when he</p> <p>22 also says in that same paragraph that she's in the top</p> <p>23 20 percent of people that have received tenure of the</p> <p>24 people that he's reviewed?</p> <p>25 A. As I said, in comparison, we've often -- we</p>

<p>150</p> <p>1 often seen cases where the letter writer says the 2 candidate's in the top 1 percent, 2 percent, 5 percent, 3 10 percent. We don't have a percentage cutoff in these 4 types of assessments. 5 Q. And it's 1 percent, 2 percent, of what? 6 That's what's important, correct? 7 A. Typically the percentage is of faculty that 8 are -- that have been considered and have been promoted 9 at peer -- peer schools or departments. 10 Q. Again, there's no rule that that's the 11 percentage that they're talking about that you're 12 referencing in the abstract, right? 13 A. There is no rule, correct. 14 Q. Okay. So -- and in this letter, he says top 15 20 percent of all those that have received tenure. So 16 he's still referencing the tenured position, and he's 17 not saying the average. He's saying the top fifth? 18 A. Yes, he is, correct -- 19 Q. Okay. And top -- 20 A. -- the ones he's reviewed. 21 Q. Top fifth is nowhere near average, correct? 22 A. "On par," to me, is not a strong endorsement. 23 Top 20 percent is stronger; but we have seen, after 24 reviewing many cases, cases that are characterized by 25 external reviewers as much higher percentages.</p>	<p>152</p> <p>1 want to see -- determine the level of international 2 impact that a candidate is having and attention they're 3 getting. So this was a letter that was submitted from 4 Professor Schulz. 5 So on the second page, 16415, at the top 6 of the page, discussing the publication, he makes a 7 statement that, "She may not have had what one may 8 typically consider a home-run paper, but with meticulous 9 work she has certainly helped to bring this research 10 direction forward." My interpretation is that's a 11 fairly weak -- weak recommendation. Detailed -- 12 "meticulous work," helped move something forward is not 13 a strong -- strong endorsement of the impact of the 14 paper. 15 The second paragraph begins, 16 "Dr. Nikolova has only four journal publications..." We 17 would count three as an assistant professor at UT Austin 18 and Texas A&amp;M. And he goes on to say, "...which would 19 be very few in any environment in which this would be 20 the main measure of success." So he's making a 21 statement that this is a few number, and he's qualifying 22 it because he doesn't know how important that is as a 23 measure. And journal publications are an important 24 measure, but then he does say that, "Three of the four 25 papers" -- and I don't know if it's three of the three</p>
<p>151</p> <p>1 Q. And nobody's taking anything away from those 2 people. 3 A. Uh-huh. 4 Q. I'm just saying there is no requirement 5 that to get tenure at UT, you have to be in the top 6 10 percent or 1 percent of people in the country that 7 receive tenure, correct? 8 A. That is correct, there is no -- there is no 9 cutoff. 10 Q. So I -- okay. We'll move on. What's your 11 next criticism of Dr. Nikolova's file? 12 A. Well, the question is: What was it in the 13 external letters that raised concerns in the promotion 14 and tenure case? 15 Q. For you. 16 A. For me, yes. 17 So there's a letter from a 18 Professor Schulz at Technical University of Munich. 19 Q. Bates number? 20 A. It is 16413 to 16415. 21 Q. Go ahead. 22 A. Now, just as background, we do have a general 23 expectation that a candidate's promotion to assistant -- 24 excuse me -- associate professor with tenure has at 25 least one reference outside the United States because we</p>	<p>153</p> <p>1 in -- as an assistant professor or two of the three -- 2 "are in top journals." And that's a positive factor 3 that the papers are being put in -- in top journals. 4 Then he goes on to something that's 5 important in this field, referee journals -- excuse 6 me -- refereed conference proceedings, "...of which she 7 has many more." That was the 18 number that we talked 8 about. 9 But then there are some concerns that -- 10 that are discussed in the remainder of the paragraph, 11 that they are going into top specialty conferences, such 12 as algorithmic theory, which is good; but the 13 implication is those are good if one chooses not to be 14 in the general theory conferences, which gets much wider 15 attention and impact because of the scope of those 16 conferences. So those are -- those are concerns about 17 the number and the impact of her journal publications 18 from the perspective of this international reviewer. 19 Then the final sentence in his letter is, 20 "All in all, I would encourage you to seriously consider 21 promoting Dr. Nikolova to Associate Professor with 22 Tenure." And we see these phrases many times, and 23 that's -- that's a polite way of saying they're 24 recommending you considerate; but it's not a -- it's not 25 an overall positive assessment.</p>

<p>154</p> <p>1 Q. So, before, you said, "We're not looking for a 2 recommendation; we're looking for an assessment"?</p> <p>3 A. Right. And that's not a recommendation. I 4 put that in the category of an assessment to seriously 5 consider.</p> <p>6 Q. Right. So if he was saying something strong, 7 in your opinion, he would have said...?</p> <p>8 A. So we've seen -- we see statements like this. 9 Again, I've reviewed thousands of reference letters; and 10 this is a polite way in a reference letter that they're 11 recommending we look at it but don't say anything more 12 than that.</p> <p>13 Q. Don't say anything what?</p> <p>14 A. They don't say anything more than: I 15 recommend you looking at the case.</p> <p>16 Q. And this is a German individual?</p> <p>17 A. I don't know his nationality, but he's at the 18 University of Munich in Germany.</p> <p>19 Q. With a name like von Humboldt?</p> <p>20 A. Well, that's his title of his --</p> <p>21 Q. Oh.</p> <p>22 A. -- professorship. His name is Andrea Schulz.</p> <p>23 Q. Which is -- sounds German.</p> <p>24 A. And the University of Munich is a very good 25 university.</p>	<p>156</p> <p>1 works in and teaches in?</p> <p>2 A. There's nothing wrong with publishing in a 3 top conference in a specialty. The point is, it doesn't 4 get -- those papers don't get as much attention and 5 don't have as much impact as publishing a theory paper 6 in one of the large general conferences that have 7 higher -- excuse me -- lower acceptance rates.</p> <p>8 Q. So there's really nothing negative about that; 9 it's just not "blow your mind"?</p> <p>10 A. That's correct. It's -- that's a fair 11 characterization. It's -- it's what we would expect an 12 assistant professor to do. In the categories I used, I 13 call this solid. This would be a solid performance 14 in publications in conferences, which is an important 15 dissemination out- -- dissemination outlet, a form of 16 dissemination for this field.</p> <p>17 Q. So you would agree she -- this professor is 18 not trying to excuse her mediocre performance. He's 19 saying she -- in your opinion, this sentence says she's 20 not in the top tier in the world; she's in the top 21 conference for that specialization?</p> <p>22 A. He's saying that she is not published in the 23 important general conferences in theory.</p> <p>24 Q. But she is in the top conference for that 25 specialization?</p>
<p>155</p> <p>1 Q. And have you ever compared letters from him 2 before?</p> <p>3 A. No.</p> <p>4 Q. Okay. And where is the criticism of her 5 presenting at game theory -- algorithmic game theory 6 conferences?</p> <p>7 A. So it's -- it's -- again, these letters are 8 often worded very carefully; and, again, I have lots of 9 experience having read these letters. So the sentence 10 at the bottom of that first full -- last sentence of 11 that first full paragraph on page 16415, I'll quote. 12 "As mentioned before, ACM EC is the top conference in 13 algorithmic game theory" -- so it's a specialty 14 conference sponsored by ACM -- "if one does not choose 15 to submit or get into" -- meaning have an accepted paper 16 into -- "general theory conference such as STOC, FOCS or 17 SODA," which is a very widely-known conference in that 18 field, in theory. What the point is -- he's making is 19 she's publishing in top specialty conference. She is 20 not publishing in the conferences that get a lot more 21 attention -- the general conferences that get a lot more 22 attention in theory, computational theory.</p> <p>23 Q. So she could have done better; but there's 24 nothing wrong with the fact that she was in a top 25 conference in that specialty, which is the specialty she</p>	<p>157</p> <p>1 A. For that special field, correct.</p> <p>2 Q. So there's nothing wrong with that?</p> <p>3 A. There's nothing wrong with it. The question 4 is, as we're looking at the overall publication record, 5 the impact that it's having -- that it's having and the 6 attention that it's getting. This is a statement that 7 at this point, it is limited to -- to the specialty 8 conference topic in algorithmic game theory.</p> <p>9 Q. And that's what she's -- that's what she's 10 working in, correct?</p> <p>11 A. That is correct.</p> <p>12 Q. That's her specialization?</p> <p>13 A. That her specialization.</p> <p>14 Q. Okay. Next.</p> <p>15 A. Let me thumb through my notes here. I think 16 the third one is from Cornell, page 16418 and 16419.</p> <p>17 Q. Okay. And just to insert a question here, 18 we're going through these letters. And is it your 19 testimony that the decision to not grant her tenure, you 20 remember it being based on these points; or are these 21 points that you have read through the dossier, with the 22 help of others, in the interim months and years since 23 the decision to deny her tenure?</p> <p>24 A. So I had no help in reviewing this document. 25 I do not remember the specifics of the discussion on</p>



<p>158</p> <p>1 this case when it occurred in 2019. I'm identifying 2 these from my recent review of the case, but I would 3 have read these letters at the time the case was 4 presented to the President's Committee. 5 Q. Okay. And you've reviewed this dossier with 6 the understanding that Dr. Nikolova had filed a suit 7 against UT, complaining of gender discrimination, 8 pregnancy discrimination, retaliation, which also, 9 essentially, accuses you of the same discrimination 10 as -- and that's in your mind as you're reviewing this 11 document? 12 A. I'm reviewing the doc- -- document because of 13 the allegation in the lawsuit. 14 Q. And you know that you're, in part, being 15 accused of, if not discriminating against her, letting 16 the discrimination occur and continue? 17 A. I'm -- the University of Texas, and I'm being 18 accused in my institutional capacity. Yes, I 19 understand. 20 Q. Of either discriminating or allowing the 21 discrimination and retaliation to occur, without fixing 22 it? 23 A. In general, I understand that. I have not 24 read the claims in -- the specific claims. 25 Q. Okay. Go ahead to the next letter.</p>	<p>160</p> <p>1 sentence that, "I believe that the body of work..." 2 Q. Okay. I'm there. 3 A. So, "I believe that the body of work is 4 comparable in breadth and depth to her peers approaching 5 tenure decisions at their respective research-oriented 6 universities." So comparable is not a strong -- strong 7 word. The comparison group is approaching tenure 8 decisions, not -- 9 Q. Right. 10 A. -- not has been granted tenure. 11 And then, the end of that sentence is a 12 sentence -- a type of sentence in an external letter 13 that -- that I and others -- and I don't recall 14 specifically -- but, typically, the President's 15 Committee will notice, "...that a tenure case of these 16 merits would have strong proponents at most top-10 17 departments." So this is a very weak statement that 18 there will be some proponents for this case at most top 19 departments. So that -- that, to me, is a -- is a 20 serious red flag. 21 Q. Okay. So maybe not at the top two schools, 22 but the rest? 23 A. I don't understand the question. 24 Q. Well, "at most top-10 departments" -- there's 25 ten departments in the top ten, right?</p>
<p>159</p> <p>1 A. So this is David Shmoys at Cornell University. 2 There's a -- some narrative there about how he knows 3 Professor Nikolova, some -- a gen- -- general discussion 4 of her research area. We see these often in reviews. 5 Q. Is that a negative? 6 A. No, that's not a negative, just there's a lot 7 of text in there; but it's -- my point is it's often 8 very general, via few comments. So the -- the -- so I 9 don't recall what I -- what I did in 2019; but there is 10 a statement in the middle of that paragraph that, based 11 on my many years of doing this, would have caught my 12 attention. And the sentence -- the full sentence is, "I 13 believe that the body of work is comparable in breadth 14 and depth to her peers approaching tenure decisions at 15 their respective research" orientation -- "research- 16 oriented universities..." So comparable, the term 17 "comparable" -- 18 Q. You lost me. Where are you reading from so I 19 make sure I'm following along? 20 A. Sorry. I'm sorry. This is page 16419. 21 Q. Okay. 22 A. The first full paragraph that begins, "The 23 impact of..." 24 Q. Okay. 25 A. So about halfway down into that paragraph is a</p>	<p>161</p> <p>1 A. "...at most top-10 departments," yeah. So it 2 would have strong proponents at most, but not all 3 departments. 4 Q. So that could be seven, eight? 5 A. I -- I can't say what he had in his mind. 6 Q. Well, it's not one or two? 7 A. It's somewhere between six and nine, I 8 suppose. 9 Q. Okay. And where is UT? 10 A. The ECE Department at this time, again, it's 11 somewhere in the top twelve. It may be top ten. It did 12 go up in rank, but I don't remember where it was at that 13 time. 14 Q. So the majority of the schools that are even 15 above UT? 16 A. In terms of the comparison set of departments, 17 that's correct. 18 Q. Yeah. Okay. So somehow you view that as not 19 deserving tenure? 20 A. It is a red flag that it's not just comparison 21 of who has received tenure at, let's call it, half the 22 top twelve departments; but the case would have strong 23 proponents. That's a very weak statement. That means 24 that there would be some who aren't strong or some who 25 are against.</p>



<p>162</p> <p>1 Q. And he -- and he provides further explanation 2 for his opinion to support UT being in one of those 3 departments that would support her tenure? 4 A. Well, I don't -- I'm not reading that into the 5 letter. 6 Q. Well, why not? It's the last -- the rest of 7 that paragraph goes into detail about his perspective 8 and why he thinks she's a good bet. 9 A. Well, she -- he's talking in the next sentence 10 about her as a mentor. That wasn't a question in her 11 promotion case. "...along with obtaining the research 12 support to maintain it," we question that premise, so 13 based on the data that was presented in the campaign. 14 "Her research agenda is a good one." A good research 15 agenda is not a particularly strong endorsement. 16 "I think that she is moving towards not 17 just attacking stylized models, but...trying to 18 capture...real-world impact." That's good. And he 19 supports that process that she's doing. 20 She's articulate. There was never any 21 question about her ability to articulate. There was not 22 an issue in -- as I've stated in my decision to do not 23 promote -- on her classroom teaching. And he has a 24 general statement about her potential for -- for 25 leadership and her research in general.</p>	<p>164</p> <p>1 than four reviews a year because of the time it takes. 2 And so we recognize we're often going to the best people 3 in the field who are often getting lots of requests, and 4 so there's no negative attribution for a particular 5 decline or even a few declines. The exception -- and 6 this occurs rarely -- is when we see a very large number 7 of declinations, 10, 15 declinations. There, we do have 8 some -- some concerns and do expect the Department Chair 9 and the Dean to explain a large number of declinations. 10 Q. Wouldn't there also be -- like you say, you 11 would only do four -- other people out there in the 12 field that are only doing four; and they decide which 13 four they're going to do? 14 A. Yes. I would decide which four I was going to 15 do. Sometimes it's first come first serve because they 16 don't all come in at once and then you pick and choose. 17 So sometimes there's a timing aspect. 18 Q. Right. But -- but that's you. 19 A. I can only speak for how I did it. 20 Q. Others might -- because these timelines are 21 fairly similar and the requests go out at about the same 22 time, too, and so they can pick and choose and decide 23 which ones they're going to write the letters for? 24 MR. DOWER: Objection, form. 25 A. The time -- every university is on a somewhat</p>
<p>163</p> <p>1 And, then, finally, his concluding 2 paragraph is not particularly strong. "...roughly 3 consistent with the expected achievements required for 4 tenure." "Roughly consistent" is not a term I hear -- I 5 can recall hearing; but that qualification "roughly," 6 you know, doesn't sound to me as a particularly strong 7 endorsement that she's reached the expectations for 8 tenure. 9 Q. Let me ask you another side question to this 10 exercise. Isn't it true that one of the things that is 11 a mark of whether or not someone is endorsed by the 12 community is when letters are sent asking for references 13 that some percentage of the people don't respond, and 14 that's viewed negatively? 15 A. So if I understand your question, it's: How 16 do we view the number of declines or declinations for 17 requests for letters? Is that what your question is? 18 Q. Is a declination viewed as an indication of a 19 negative view of the person? 20 A. So, the general answer is: No, we don't pay 21 attention to declinations. There's one exception to 22 that -- a possible exception I will mention -- and the 23 reason we don't is that when I was an active researcher, 24 before I got into administration, I would get a lot of 25 requests; and my personal policy was never to do more</p>	<p>165</p> <p>1 different timeline. The letters can be requested early 2 fall, all the way to -- you know, all the way to the 3 summer. I mean, it really depends. They don't all 4 necessarily happen at the same time. 5 Q. (BY MR. NOTZON) Okay. Moving on. 6 A. So those are the three letters that, as I 7 reviewed the dossier in preparation for this testimony, 8 that had -- had items that I called to your attention. 9 I don't recall the specifics; but I do know I looked 10 through the letters thoroughly for -- for cases, 11 especially for cases where there's a recommendation to 12 do not promote. So I would have seen those at the time 13 of the review by the President's Committee. 14 Q. And none of the letters assessed Dr. Nikolova 15 as being unworthy of tenure, correct? 16 A. That is correct. 17 Q. And neither Professor Tewfik or Dean Wood made 18 negative -- made comments about the letters of reference 19 being anything other than positive for Dr. Nikolova? 20 A. Well, Dr. Tewfik, I'd have to go back and 21 review his letter. I don't recall if he did. Dean Wood 22 typically does not quote letters or make substantial 23 comments of letters in her Dean's assessment. I do not 24 recall -- I should say I do not recall a discussion with 25 Dean Wood; but the general practice would have been,</p>

<p>166</p> <p>1 given statements like I've discussed, to bring them up 2 for discussion with the Dean for the Dean's assessment 3 of those comments. 4 Q. When you read Dean Wood's assessment of 5 Dr. Nikolova, Exhibit 2, did you see her referencing the 6 point that Dr. Nikolova somehow changed in her 7 trajectory after the 2015-2016 school year? 8 MR. DOWER: Objection, form. 9 A. I'd have to go back to that. I think she -- 10 the statement is the concerns that she discussed in the 11 last page of her assessment. These concerns are 12 compounded by the fact that her teaching and external 13 funding -- and we were primarily focusing on funding -- 14 have dropped since she spent the 2015 fall sabbatical 15 semester at UT. So that's -- that was her -- her 16 statement about the change. 17 Q. (BY MR. NOTZON) Okay. And you see up in the 18 first page, that's the time where she had the -- she was 19 at Simons Institute; and then the next semester it says, 20 "Modified Instructional Duties"? 21 A. Correct. 22 Q. And you understand that that's the year that 23 she had received the stop -- stop clock? 24 A. I -- I assume that's the case, but I'd have to 25 go back and check what year that was.</p>	<p>168</p> <p>1 Q. Right. 2 A. So she would have had four years towards her 3 probationary status at UT Austin. 4 Q. Right. But she would still be work- -- she 5 could still be working. On Modified Instructional 6 Duties, you're still expected to work, correct? 7 MR. DOWER: Objection, form. 8 A. Yeah. So I'd have to go back and review 9 the policies on Modified Instructional Duties. It's 10 still -- the expectation is that faculty are still 11 working on their research. They're just not in a 12 classroom, teaching with a schedule that requires a 13 fixed schedule of a class; but they're -- they're still 14 employed by UT and still expected to be working on their 15 other non-teaching aspects. 16 Q. (BY MR. NOTZON) Which includes service? 17 A. Correct. 18 Q. And includes publication? 19 A. Now, let me back up. So service, let me 20 correct that. I think Modified Instructional Duties 21 also includes a reduction in service expectations at the 22 department and university level, but I'd -- I'd have to 23 go back and review those policies. 24 Q. But not elimination? 25 A. Again, I would have to go back and review</p>
<p>167</p> <p>1 Q. That she was pregnant and delivered in that -- 2 in that period? 3 A. Right, I assume that's the case. 4 Q. Okay. And the Modified Instructional Duty, do 5 you know where she was at that time? 6 A. I do not. 7 Q. Could she be at UT and with modified 8 instructional duties due to her -- the birth of her 9 child? 10 A. Could she be at UT? Could you clarify in that 11 question what you mean by that? 12 Q. Well, so, you see the -- the -- I guess the -- 13 where it says UT Austin, UT Austin, UT Austin -- have 14 you ever seen her use this kind of chart? 15 A. "Her," being Dean Wood? 16 Q. Yes. 17 A. I don't recall, but it -- it's very possible. 18 She uses this as a graphic way to explain the status 19 each year. 20 Q. Showing that she's only been working at UT -- 21 you can only count three years on the UT probationary 22 period? 23 A. Well, it would have been four years, as -- as 24 in the cover sheet, because this doesn't include the 25 year in which it's being evaluated, 2018-2019.</p>	<p>169</p> <p>1 those policies. I think the general practice was when a 2 faculty member was on Modified Instructional Duties, we 3 were trying to eliminate, as much as possible, 4 requirements that they be on a fixed schedule. 5 Q. Right. Service isn't a fixed schedule, right? 6 A. Well, service is typically committee service, 7 which has meetings that takes place on campus, sometimes 8 with specified frequency, or an expectation that they 9 would be in attendance at a committee meeting. 10 Q. And mentoring students would still be there? 11 A. Graduate students, generally, yes. 12 Q. And let's go ahead and look at 13 Professor Tewfik's assessment. 14 MR. NOTZON: I'm going to put it up on 15 the chat. 16 Oh, my chat's disabled now. That's 17 strange. 18 MR. SCHMIDT: Give me a second. I am 19 looking at it. Let's see. 20 MR. DOWER: Robert, I think it's in the 21 dossier. I think it's on 16309 -- 22 MR. NOTZON: Okay. 23 MR. DOWER: -- if you just want to use 24 the same -- I think that's right. Yes, I think that's 25 right.</p>

<p style="text-align: right;">170</p> <p>1 MR. NOTZON: That'll work.</p> <p>2 THE WITNESS: 16 -- oh -- 309. I see.</p> <p>3 Okay. Correct.</p> <p>4 Q. (BY MR. NOTZON) Okay. So does</p> <p>5 Professor Tewfik say anything critical of Dr. Nikolova</p> <p>6 in terms of her funding sustainability and trajectory or</p> <p>7 publication record or the external reviews?</p> <p>8 A. Okay. Let me go through this again.</p> <p>9 Q. That's -- that's the question for you to</p> <p>10 answer as you look through his letter.</p> <p>11 A. So I'm looking at the middle of page 16312.</p> <p>12 Q. I'm there.</p> <p>13 A. And there's a one-sentence paragraph in the</p> <p>14 middle of the page. It says, "Professor Nikolova well</p> <p>15 funded by highly competitive peer-reviewed grants and</p> <p>16 industry." I believe this is an incorrect -- this is</p> <p>17 not a valid statement, based on the review of her</p> <p>18 funding record, that in terms of current grants, with</p> <p>19 only one would -- one have extended past the promotion</p> <p>20 at a rate of about \$120,000 per year with one pending</p> <p>21 proposal -- I don't know if that was granted or not --</p> <p>22 that would have only funded another hundred thousand per</p> <p>23 year. So I think this is a -- this statement is not</p> <p>24 accurate. And this is concerning when we see department</p> <p>25 chairs not address shortcomings in the case, and it</p>	<p style="text-align: right;">172</p> <p>1 publications, and there's also -- he is only quoting the</p> <p>2 positive comments from the letter without addressing</p> <p>3 some of the comments that raised concerns -- that I</p> <p>4 would expect would have raised concerns when we looked</p> <p>5 at the entire dossier.</p> <p>6 Q. All right. Anything else?</p> <p>7 A. No, I don't see anything else.</p> <p>8 Q. Let's go ahead and go on to Topic 2, "The</p> <p>9 tenure review decision process relating to the decision</p> <p>10 to deny tenure to Dr. Nikolova as it relates to the</p> <p>11 actions of the president and the president's committee."</p> <p>12 I think we've already covered that. Do you agree? What</p> <p>13 did you do, and who was there? And you didn't really</p> <p>14 remember. And any comments that were made, and you</p> <p>15 didn't really remember any details about that?</p> <p>16 A. I don't have anything further to add.</p> <p>17 Q. Okay. To the process that you utilized to</p> <p>18 deny Dr. Nikolova's tenure?</p> <p>19 A. I don't have anything further to add.</p> <p>20 Q. Okay. All right. So the third topic,</p> <p>21 "The tenure applications and decisions for other</p> <p>22 tenure track faculty in the school of engineering made</p> <p>23 by...President Fenves since Dr. Nikolova began at UT; to</p> <p>24 further clarify, we seek a Corporate Representative to</p> <p>25 provide testimony regarding the following comparators'</p>
<p style="text-align: right;">171</p> <p>1 reduces the credibility of the overall letter from the</p> <p>2 Department Chair.</p> <p>3 There's an issue that we talk about</p> <p>4 regularly with the deans in meeting with the department</p> <p>5 chairs that if there is a problem in the case, explain</p> <p>6 it so that we understand it. This is a statement that</p> <p>7 does not do that.</p> <p>8 Q. In your opinion?</p> <p>9 A. In my opinion.</p> <p>10 Q. Okay. Keep going.</p> <p>11 A. Then he goes through a comparison. This is</p> <p>12 typical for Dr. Tewfik in his promotion cases. He</p> <p>13 selects, generally, three or four other cases. I don't</p> <p>14 know the methodology by which he picks them to compare a</p> <p>15 candidate. And, generally, Dr. Nikolova, in a -- sort</p> <p>16 of in the middle of a small number of cases that he has</p> <p>17 selected, I don't find this particularly convincing</p> <p>18 because of the small number -- you know, just look at</p> <p>19 citations. Again, it's a very limited sample of only</p> <p>20 four cases. It's right in the middle, with the</p> <p>21 candidate the person from the University of Michigan,</p> <p>22 who was promoted in 2012 with 2259 citations. I assume</p> <p>23 that is at the time of promotion, but hard to tell from</p> <p>24 the methodology that he uses.</p> <p>25 There's no other analysis of</p>	<p style="text-align: right;">173</p> <p>1 tenure applications and UT's decisions as to them," with</p> <p>2 a list of names. And did you look at those dossiers?</p> <p>3 A. I did.</p> <p>4 Q. Is it accurate that you don't recall these</p> <p>5 particular decisions that you made independent from your</p> <p>6 review of those documents?</p> <p>7 A. I don't recall the --</p> <p>8 MR. DOWER: Objection, form.</p> <p>9 A. I don't recall the specifics of any decision.</p> <p>10 I recognize many of the faculty -- I should say a number</p> <p>11 of the faculty members. Some of them I hired or had</p> <p>12 promoted -- actually, I wouldn't have promoted any of</p> <p>13 them, but had hired. There was one that stood out</p> <p>14 because it's such an incredible record and I worked with</p> <p>15 him on a major center proposal, but he was -- he was the</p> <p>16 one that I knew the best.</p> <p>17 Q. Who's that?</p> <p>18 A. This would have been in ECE, Deji Akinwande.</p> <p>19 Q. Okay. So of this group, he would be the</p> <p>20 stand-out superstar?</p> <p>21 A. Yes, but he's a superstar. I'd have to go</p> <p>22 through the specifics of each case. He's the one I know</p> <p>23 the best. Let me put it that way.</p> <p>24 Q. Okay. Both in terms of him as an individual</p> <p>25 colleague and him as an applicant on paper?</p>

<p>174</p> <p>1 A. As an individual who has had a tremendous 2 publication record, funding record, and I'd put in the 3 category extraordinary leadership in a successful, major 4 center proposal at UT Austin. 5 Q. Most top ten schools would give him tenure? 6 A. Yes, I would say all top ten schools would 7 give him tenure. 8 Q. As far as you know? 9 A. As my -- my professional assessment is that if 10 his case were presented to a top ten department in 11 electrical and computer engineering, it would -- they 12 would award tenure. 13 Q. Okay. And you're currently at Emory? 14 A. Emory University, yes, correct. 15 Q. And is Emory a top ten school? 16 A. Emory does not have a school of engineering. 17 Q. Is Emory top ten in anything? 18 A. It's got some outstanding programs, yes. 19 MR. NOTZON: Object as nonresponsive. 20 A. Yes, they are top ten in individual programs. 21 Q. (BY MR. NOTZON) Please name them. 22 A. Biomedical engineering, nursing, the School of 23 Public Health, creative writing. I think our chemistry 24 department is either a top ten or very close to a top 25 ten.</p>	<p>176</p> <p>1 Q. So Emory's higher? 2 A. In U.S. News &amp; World Report rankings. 3 Q. Okay. And have you ever participated in 4 promotional -- tenure promotional considerations at any 5 top five schools in the country? 6 A. Well, at Berkeley, which is generally 7 considered, especially the College of Engineering, a top 8 two or three College of Engineering. I was involved as 9 a faculty member and then a department chair for five 10 years. And then, in addition, with the process at 11 Berkeley, I did serve on several, what they call, ad hoc 12 review committees for promotion cases. 13 Q. Let's look at the -- of the 14, which would be 14 these 13 and Dr. Nikolova, are -- do you understand that 15 each one of these was -- went up for tenure early except 16 for Dr. -- Professor Tiwari? 17 A. I'd have to go back and check, but I'll -- 18 I'll agree that's correct. 19 Q. Okay. And is it accurate that none of these 20 individuals took a probationary extension year except 21 for Dr. Nikolova? 22 A. I would have to go back and look at each case. 23 Q. Okay. Would it be accurate that none of these 24 individuals gave birth or was pregnant during their 25 probationary period?</p>
<p>175</p> <p>1 Q. And UT -- okay. And is that top ten in the 2 country or top ten for private schools? 3 A. Top ten in the country. 4 Q. And is UT -- when you were the president, were 5 they the top ten in anything? 6 A. Yes. Again, I'm doing this off the top of my 7 head -- well, let me ask a clarifying question: Within 8 engineering? 9 Q. We can start there. 10 A. Petroleum &amp; Geosystems Engineering was either 11 Number 1 or 2. Civil and Environmental Engineering was 12 typically Number 3 or 4. Let's see. Chemical 13 Engineering was typically 5 to 7; it depended on which 14 ranking and which year. 15 Q. Okay. And that's those four? 16 A. Those are what I can remember in the School of 17 Engineering. 18 Q. Okay. Would you say UT, overall, is a higher- 19 ranked university than Emory? 20 A. Well, that's a -- that's a complicated 21 question to answer. U.S. News &amp; World Report ranking, 22 Emory is ranked 21st in the country. UT Austin, I don't 23 know where it is now. We did increase the ranking while 24 I was a president, but I think it's in the 40s under 25 U.S. News &amp; World Report.</p>	<p>177</p> <p>1 A. Well, I think all of them are male. There 2 is -- so they would not have given birth. I believe 3 there was one that's female. Is Zoya a female? 4 Q. I believe so. 5 A. Yeah, so I don't know if she gave birth or 6 not. 7 Q. In reviewing these individuals, do you recall 8 that the explanation for early review was either no 9 comment by Dean Wood or was only related to their prior 10 service at another institution? 11 A. Again, I'd have to go back to the individual 12 cases. Again, with the Deji Akinwande case, which I -- 13 he -- I think it was -- there -- I'd have to go back. I 14 believe there were statements just about the 15 extraordinary nature of his case. 16 For those cases where there was prior 17 years as an assistant professor at a peer university, 18 there probably was not a statement of why now because it 19 was quite clear from the record that a number of years 20 they'd been an assistant professor, including those 21 before UT Austin. 22 And, typically, as we saw in the Nikolova 23 case, Dean Wood does a nice job of summarizing the time 24 line and the total years as an assistant professor. So 25 no additional explanation is needed.</p>

<p>178</p> <p>1 Q. Well, let me see if I can understand what you 2 just said. It's true, is it not, that there is a 3 requirement that an explanation be given for an early 4 consideration?</p> <p>5 A. Yes.</p> <p>6 Q. So if no comment is made about it, that would 7 not be in compliance with the guidelines?</p> <p>8 A. Well, it could be if it's not provided in a 9 written form and the Dean's assessment to the 10 satisfaction of the President's Committee, somebody on 11 the President's Committee will ask the question "why 12 now" and expect an explanation.</p> <p>13 Q. And we'd have to take your word for it on that 14 because there's no writing?</p> <p>15 A. This is my testimony based on my experience on 16 the committee and as president for five years.</p> <p>17 Q. So the answer's "yes"?</p> <p>18 A. Correct. My testimony is that, yes, that's 19 correct.</p> <p>20 Q. And even though you don't really recall what 21 happened in each of these incidents related to the 22 decision that you made or the discussions that you had 23 related to each case?</p> <p>24 A. So I have been -- in my years on the 25 committee, I have reviewed over 800 cases and made</p>	<p>180</p> <p>1 sixth, seventh, or eighth year of being an assistant 2 professor, would that characterization be accurate?</p> <p>3 A. So that would be in the context -- that 4 statement by Janet Dukerich would be in the context of 5 four years as -- in rank as an assistant professor. 6 That's -- that's the context of her --</p> <p>7 Q. Define "in rank."</p> <p>8 A. Yeah, so, again, I'm using the loose doc 9 terminology. So that would count as four years as an 10 assistant professor -- her con -- her statement is to 11 give an idea that for a candidate who is four years as 12 an assistant professor is what we -- we have to answer 13 the question -- the Dean -- the Department Chair and the 14 Dean have to answer the question: Why now, four years 15 as an assistant professor?</p> <p>16 Q. Anywhere?</p> <p>17 A. That we would count at UT Austin as part of a 18 probationary period or anywhere else.</p> <p>19 Q. I didn't understand what you just said.</p> <p>20 A. So the statement that Janet Dukerich made, 21 Vice Provost for Faculty Affairs, is, "We have a case 22 where a faculty member has been four years as an 23 assistant professor." That could be either all at UT 24 Austin or a combination of UT Austin --</p> <p>25 Q. Okay.</p>
<p>179</p> <p>1 decisions on 600 of those. So I don't recall the 2 discussion on any specific one.</p> <p>3 Q. If someone was to say that a candidate that 4 goes up early for tenure two years, like in the fourth 5 year at UT, that they would have to be two standard of 6 deviations better than someone going up in their up or 7 out, what would you say to that?</p> <p>8 A. Well, I think Janet Dukerich has used that 9 language. I think it was in the document that you 10 showed earlier in the minutes of the Faculty Council. 11 She was -- this was a report of the CCAFR report 12 summarizing statements that took place either in the 13 brown bag lunches or the road show -- I think that's 14 what it was called -- or the panels.</p> <p>15 And I think Janet is -- is giving a -- is 16 giving a qualitative -- she's a business professor -- 17 some quantification to give an idea that somebody that's 18 two years early, there has to be a significant reason to 19 consider the case at that time because it is so early to 20 evaluate what their performance would be during the 21 probationary -- during the full probationary period.</p> <p>22 Q. So you wouldn't disagree with that statement?</p> <p>23 A. I wouldn't characterize it that way myself, 24 but I wouldn't -- I wouldn't disagree with it.</p> <p>25 Q. But if the candidate, in fact, is in their</p>	<p>181</p> <p>1 A. -- and another university prior to that.</p> <p>2 Q. All right. I just wanted to make sure that 3 when you said "in rank" this time, you were talking 4 about as an assistant anywhere?</p> <p>5 A. That is correct.</p> <p>6 Q. And -- well, not to split hairs, but anywhere 7 but only at a peer institution?</p> <p>8 A. I appreciate that clarification. At a peer 9 institution that has -- at a peer institution --</p> <p>10 Q. Okay.</p> <p>11 A. -- and a peer program for that particular 12 department.</p> <p>13 Q. Right, peer department?</p> <p>14 A. Right.</p> <p>15 Q. Okay. So that if it's -- if it's like I said, 16 sixth, seventh, or eighth year of UT, plus a prior 17 institution, peer institution, that two standard 18 deviations would not be something you'd agree with?</p> <p>19 A. Not only would I not agree with it; we would 20 not use that standard in that situation.</p> <p>21 Q. All right.</p> <p>22 MR. NOTZON: Let's go ahead and take 23 another short break. Okay. Let's go ahead and go off 24 the record.</p> <p>25 THE REPORTER: We're going off the record</p>

<p>182</p> <p>1 at 3:59 p.m.  2 (Off the record from 3:59 to 4:21 p.m.)  3 THE REPORTER: We're going back on the  4 record at 4:21 p.m.  5 Q (BY MR. NOTZON) Okay. So let's -- in no  6 particular order, let's start with -- let's do Mr. Cox.  7 We have -- let's start with --  8 MR. NOTZON: And this will be Exhibit 40,  9 and it will be two documents. It will be the Dean's  10 Assessment and the Summary Sheet as Exhibit 40.  11 (Exhibit 40 marked.)  12 A. And what page is that Summary Sheet on?  13 Q. (BY MR. NOTZON) The Summary -- the Dean's  14 Assessment is 11042.  15 A. I have that.  16 Q. And the -- the Summary is 11080. Okay?  17 A. Yes.  18 Q. Okay. So starting with the Dean's Summary,  19 this is an accelerated case, correct?  20 A. This is an early case because he had been  21 three years on probationary status at UT.  22 Q. Okay. But it says a total of nine years in  23 rank there on the second page?  24 A. He had previously been an assistant professor  25 at the University of Arkansas.</p>	<p>184</p> <p>1 geotechnical engineering and his role in this program  2 that was called the NEES program. So there's some  3 narrative about that.  4 Q. And --  5 A. I am highly confident that this would have  6 been discussed at the time the case was considered.  7 Q. Okay. It does show that his funding at UT is  8 only 410,000, correct?  9 A. Which page are you referring to?  10 Q. Let's see here. I'm referring to my notes.  11 A. So if I look at the summary page, 11088,  12 his share of funding as an assistant professor is  13 1.9 million.  14 Q. Right. But it doesn't break out the prior  15 institution and UT, like a lot of these do, correct?  16 A. I'd have to go back and more thoroughly look  17 at it.  18 Q. So looking at the summary sheet, it doesn't  19 break out the UT work versus the prior work, like a lot  20 of these summary sheets do, correct?  21 A. It does not break it out, that's correct. I  22 don't remember what the other summary sheets do.  23 Q. You're not familiar with other summary sheets  24 that break out --  25 A. I'd have to go back and look at them, how they</p>
<p>183</p> <p>1 Q. Is Arkansas a peer program in Civil,  2 Architectural and Environmental Engineering?  3 A. No, it is not.  4 Q. Okay. So this wouldn't be just early; it  5 would be accelerated?  6 A. No. This is a -- this was a unique case  7 because Dr. Cox had worked with a very prominent  8 professor at UT, Ken Stokoe, on very specialized field  9 testing equipment, had been his post-doc -- had been his  10 Ph.D. student; and so this was a very special case with  11 Stokoe planning on retiring. This was a very large,  12 high-profile program at UT and Brady Cox was judged by  13 the Department and then the Dean as the best person to  14 hire to continue that major field laboratory program  15 and -- and the use of the equipment.  16 Q. Okay. I don't see anything in here about  17 that.  18 A. Well, this is my recollection of it because  19 it's an area that I do know something about; and I think  20 it's -- I have to go through the documents more  21 thoroughly. I think it's discussed in the Budget  22 Council's review and the Chair's letter, but I don't  23 have to go through it. I don't see it in the Dean's  24 assessment, but he clearly is talking about -- the Dean  25 is clearly talking about his research area in</p>	<p>185</p> <p>1 did. It is correct it does not break it out here.  2 Q. I'm asking another question. You don't  3 recognize, when I say that a lot of these summary sheets  4 will break out what's done at UT and what's done at the  5 prior institution, as a point of concern for the  6 reviewer?  7 A. I don't -- it was not -- I don't recall it  8 being a point of concern.  9 Q. Do you recall that Dr. Nikolova was criticized  10 for what she did at UT versus what she did at A&amp;M as  11 being an indication that she wasn't good enough?  12 A. I don't recall a criticism of what she did at  13 Texas A&amp;M.  14 Q. That's not my question. My question is that  15 she was criticized for what she did at UT as compared  16 with what she did at A&amp;M as somehow indicating that her  17 funding was substandard, that her sustainability was not  18 there, that her trajectory wasn't there; do you recall  19 that?  20 A. I recall that her current level of funding was  21 a concern, and the pending proposals were a concern.  22 Q. And it was discussing the fact that she had  23 not done as much at UT as she had done at A&amp;M?  24 A. The comment by the Dean was that there had  25 been a drop-off in the trajectory since 2015.</p>



<p>186</p> <p>1 Q. And, also, how much money she had gotten since 2 she'd been at UT and that her -- the majority of her 3 funding had occurred while she was at A&amp;M; do you recall 4 that?</p> <p>5 A. I don't -- no, I do not recall that. The 6 focus was primarily on what her current funding was and 7 what the pending -- the projections were based on 8 pending proposals.</p> <p>9 Q. Right. And you don't see that focus in 10 Mr. Cox -- in Dr. Cox's assessment, do you?</p> <p>11 A. So I do not. There's quite a -- quite a -- 12 for Dean Wood, quite a lengthy discussion about his 13 research, the impact it has using these geotechnical 14 shakers. This is a -- her assessment of this is it's a 15 significant development and holds a great potential for 16 the future. So I don't see any concerns about his 17 trajectory.</p> <p>18 Q. And you see that Dean Wood doesn't say 19 anything about an early promotion?</p> <p>20 A. So -- I'm sorry?</p> <p>21 Q. At the end she makes no --</p> <p>22 A. Let me -- can I go back to the beginning? So 23 the first paragraph --</p> <p>24 Q. You can do that after you answer my question.</p> <p>25 A. So can you repeat the question?</p>	<p>188</p> <p>1 A. Well, he's -- he's been at -- at the time this 2 was written, he had been at UT for a little over two 3 years because he was three years in rank; and he was at 4 the University of Arkansas for six years. So yeah --</p> <p>5 Q. Do you see criticism of his drop-off in 6 funding, like Dr. Nikolova experienced in her criticism? 7 Do you see any questions being raised about --</p> <p>8 A. I don't see any questions.</p> <p>9 Q. -- 410,000 of funding at UT when he had a 10 hundred -- 1.9 million, which is still less than 11 Dr. Nikolova, right?</p> <p>12 A. In terms of what we're talking about, it's 13 different fields. So the expectation of funding is not 14 the same across the School of Engineering. It's a 15 different department.</p> <p>16 But my reading of this is Dean Wood is 17 showing what his -- his portion is at UT Austin, his 18 share, 0.41 million, that took place over roughly a 19 little more than two years at the time this was written, 20 maybe two and a half years, compared with the remainder 21 of 1.9 million that he -- would have been his share over 22 six years at University of Arkansas.</p> <p>23 Q. There's no discussion or comment or question 24 about the decrease, correct?</p> <p>25 A. There is no discussion about the -- there's no</p>
<p>187</p> <p>1 Q. Yes. Dean Wood doesn't say anything about 2 Dr. Cox being up -- answering the question for early 3 promotion in her recommendation?</p> <p>4 A. In the section called Overall Assessment, she 5 does not say it in there.</p> <p>6 Q. Okay. Now, look at page 3 of 5 on the Dean's 7 assessment.</p> <p>8 A. Okay.</p> <p>9 Q. The paragraph starting, "While in rank" --</p> <p>10 A. Page 3 of --</p> <p>11 Q. Well, it's page 2 on the bottom of the -- of 12 the printed page?</p> <p>13 A. Yes, I see, "While in rank..." Correct.</p> <p>14 Q. Okay. Do you see where it says -- that 15 sentence says, "While in rank as an assistant professor 16 at the University of Texas at Austin, Dr. Cox has 17 received \$0.62 million" --</p> <p>18 A. Uh-huh.</p> <p>19 Q. -- parentheses -- and then "...in research 20 funding with \$0.41 million," which would be 410,000 21 being his share. So he's only gotten .41 million since 22 he's been at UT out of 1.9 million. Do you see that?</p> <p>23 A. Yes, I see it.</p> <p>24 Q. That's a significant drop-off from his share 25 prior to UT, right?</p>	<p>189</p> <p>1 analysis of this, that's correct; but there are the 2 statements that he's had 16 funded research projects, 3 3 since he arrived at the University of Texas. So he'd 4 been successful in a little over two and a half years, 5 and he was PI of 50 percent of his projects listed -- 6 the number of agencies that he had been receiving the 7 funding from.</p> <p>8 MR. NOTZON: Object as nonresponsive 9 after the affirmation of the fact that there's no 10 criticism about him in the drop-off of funding.</p> <p>11 A. There's no comment about the funding rates.</p> <p>12 Q. (BY MR. NOTZON) Okay. Let's go ahead and 13 move on to -- let's see here. Who's next? So with 14 Dr. Foster, and the Dean's assessment starts at 15 page 13843.</p> <p>16 MR. NOTZON: And this is Exhibit 41. 17 (Exhibit 41 marked.)</p> <p>18 Q. (BY MR. NOTZON) Now, in this instance, 19 there's a very strong vote from the P&amp;T Committee 20 against promotion, correct?</p> <p>21 A. Correct.</p> <p>22 Q. Is there any explanation from Dean Wood for 23 her going against that strong vote or -- or the basis 24 for the strong vote against him?</p> <p>25 A. Well, let me review this again. She has a</p>



<p>190</p> <p>1 very -- for Dean Wood, she has a very long letter.  2 Typically, her letters are two or two and a half pages.  3 This one is a little over six pages.  4 So in the middle of page 6, under the  5 section Overall Assessment, she's saying, "The members  6 of the Promotion and Tenure Committee do not believe  7 that Dr. Foster meets expectations for promotion to  8 associate professor with tenure. They have three  9 primary concerns." Do you want me to read them or --  10 Q. No, they're there. I see them.  11 A. They're there. She has three concerns.  12 Q. Yep.  13 A. And then she discusses each issue below with  14 her justification to explain her view of the concerns  15 raised by the P&amp;T Committee.  16 Q. And we have to take her word that those were  17 the only three concerns, correct?  18 A. That is the information -- correct.  19 Q. Because the P&amp;T doesn't put that in writing;  20 and nobody reviews her assessment before it goes to the  21 President's Committee, correct?  22 A. Correct.  23 MR. SCHMIDT: Robert, while you're  24 looking at this, I just wanted to note we haven't  25 admitted these as an exhibit. Do you want to do these</p>	<p>192</p> <p>1 specialized -- very specialized field.  2 Q. How does that alter the requirement of a peer  3 institution?  4 A. It's based -- it's based on the situation, the  5 program and the -- and the case; and this was a case  6 that somebody moving in from the aerospace field,  7 applying new technologies and new ideas to the petroleum  8 engineer- -- petroleum industry, with a record of  9 research at a university where they would have access to  10 that type of research funding. So that was viewed not  11 as a peer institution but as a record that was worth  12 considering and evaluating.  13 Q. Is -- Dr. Foster also had 8 of his 15  14 reviewers didn't respond. Isn't that an issue?  15 A. So, in general, declinations are not a -- not  16 a serious consideration unless they're a large number.  17 If it gets above 10 or 15 declinations, we do have  18 concerns. Petroleum -- I'm sorry?  19 Q. How about more than half?  20 A. They generally -- so this is also a very  21 specialized field. Because there are few departments --  22 four or five Petroleum Engineering Departments --  23 declinations in Petroleum Engineering is a general  24 problem --  25 Q. Wouldn't it be less declinations because</p>
<p>191</p> <p>1 as 41?  2 MR. NOTZON: I -- I actually said that.  3 MR. SCHMIDT: Thank you. Okay. My  4 apologies that I missed it.  5 MR. NOTZON: No problem. 40 is Cox; 41  6 is Foster.  7 Q (BY MR. NOTZON) Also, Foster, he comes from  8 UTSA, correct?  9 A. Correct.  10 Q. That's not a peer institution, correct?  11 A. It is not.  12 Q. So he's not early. He's accelerated?  13 A. This is an accelerated case. The question is:  14 How in the tenure evaluation was his service at UT  15 San Antonio reviewed? And as I'm -- as I have reviewed  16 this, that his record, overall record, was considered a  17 promotion case for the following reason: Petroleum --  18 very few universities have Petroleum Engineering  19 departments. I think in the whole country there are  20 maybe four or five. So for somebody in Petroleum  21 Engineering -- I think his Ph.D. was from Texas --  22 actually, it was from Purdue University -- wanted to get  23 into the oil and gas business, they were prob- -- this  24 is speculation. They're looking for a position in Texas  25 where they would have access because it's a very</p>	<p>193</p> <p>1 there's less individuals trying to get a promotion to  2 tenure in a Petroleum Engineering Department?  3 A. There are -- so we just find in Petroleum  4 Engineering it is -- it's -- there tend to be more  5 declinations because the field is so small.  6 Q. Nothing in the report said that, correct?  7 A. I don't believe so.  8 Q. And his teaching score was 3.4. That's really  9 low, isn't it? I don't see any mention of that.  10 Dr. Nikolova's getting trashed for a 3.9.  11 MR. DOWER: Objection, form.  12 A. So in Dr. Nikolova's case, at the University  13 Committee -- the President's Committee, teaching was not  14 an issue.  15 Q (BY MR. NOTZON) Teaching is something that  16 she was criticized for by Dean Wood, correct?  17 A. Dean Wood did make criticisms. My  18 recollection is it was not a factor in the decision by  19 the President's Committee.  20 Q. Okay.  21 A. But let me go back to Foster. So I'm at the  22 top of 13845. Excluding the first time PGE 334 was  23 taught, Dr. Foster's instructor ratings in undergraduate  24 courses are near the department average; and his scores  25 for the graduate course are considerably above the</p>

<p>194</p> <p>1 department average. So it looks like he had one -- one  2 course one semester with low teaching evaluations, but  3 the rest were on -- were at or near or above the  4 departmental averages.  5 Q. The same thing could be said for Dr. Nikolova.  6 She had one low score of 3.7, and rest higher than the  7 average in the top one or two of the people that have  8 taught that particular course?  9 A. That's correct, and that's why it was not a  10 factor in the President's Committee deliberations.  11 Q. Aren't his publications lower at UT than they  12 were at UTSA?  13 A. So in terms of numbers, 7 archival journal --  14 sorry -- 7 in rank at UT and 12 at UTSA, for a total of  15 22. He was at UT Austin for three years and he'd  16 previously been at Sandia Labs, so post-Ph.D. -- 2009.  17 He had a post-doc -- I'm just trying to figure out what  18 the timing is for his total at UTSA, how many years he  19 was at UTSA. So he's there three years.  20 So it looks like he had 7 at UT over  21 three years and 12 at UTSA. So they were lower at UT  22 over a -- for a three-year period, that's correct.  23 Q. But no mention of that as a negative, no  24 mention of that as a trajectory?  25 A. There's no mention of it, and it doesn't -- in</p>	<p>196</p> <p>1 compared from UTSA to UT, like Dr. Nikolova was faulted  2 for?  3 MR. DOWER: Objection, form.  4 A. The -- I don't believe Dr. Nikolova was  5 faulted for that or was it a factor. The factor in the  6 decision was her current level of funding and the  7 projection, the trajectory of her future funding.  8 Q (BY MR. NOTZON) And isn't petroleum --  9 doesn't that have access to greater cash than  10 Dr. Nikolova's field?  11 A. It depends on the time. I think we'll see  12 another -- there's another case from Petroleum  13 Engineering where the candidate had the unfortunate  14 time -- unfortunate timing of a bust in the oil and gas  15 business, and the funding dried up. So in Petroleum  16 Engineering it is highly cyclical, often correlated with  17 the price of -- price of oil per barrel.  18 Q. Yeah, but the price of oil per barrel doesn't  19 usually stay down for a six-year period of time?  20 A. Well, there have been periods where it has.  21 The department was almost closed in the Eighties because  22 of a long-term decline in the oil and gas industry.  23 Q. But not in the teens?  24 A. No, in early 2000s it was quite low and then  25 the so-called shale --</p>
<p>195</p> <p>1 the Dean's report. It was not an issue in the P&amp;T  2 Committee.  3 Q. And he had a very low H index of nine, even on  4 the Google approach, which is a higher -- usually yields  5 a higher number; and only 275 citations there on page  6 13845?  7 A. That is correct. In this field, there -- the  8 journals and the conferences that petroleum engineers  9 publish in tend to be very industry specific and don't  10 show up on Web of Science or Google Scholar. And that's  11 very typical in the field of Petroleum Engineering.  12 Q. And there's no mention of how much money he's  13 gotten since he's been at UT, is there?  14 A. In the Dean's -- is your question in the  15 Dean's assessment?  16 Q. Yes.  17 A. Well, I'm looking at the bottom of 13845,  18 total research funding in rank. So it says his  19 total research funding as an assistant professor is  20 10 million, 10.3 million, and his share being  21 2.4 million. It's important to note he's a co-PI in a  22 seven-and-a-half-million-dollar MURI award from the --  23 from the Air Force, which is a very competitive award.  24 So there is mention of research funding.  25 Q. Yeah, but no indication of what was received</p>	<p>197</p> <p>1 Q. During this period time, Dr. Fennes. Please,  2 stay with us at the end of the teens.  3 A. End of teens?  4 Q. Yeah, that's where we are, right?  5 A. Yeah. Well, let's see. This case was 2014.  6 So it was the middle of teens.  7 Q. Okay.  8 A. And so there were quite a few cycles through  9 2010 to, you know, late teens, 2019.  10 Q. Yes, but an six-year period where there's no  11 funding, where the petroleum engineers can't get funding  12 for an extended period of time where their probationary  13 period is dried up and you give them a pass at low to no  14 funding?  15 A. My -- my testimony is that it's a cyclical  16 business, and the funding levels for research are  17 cyclical.  18 Q. Okay. You can say that for anything; but  19 there's no six-year period of dry funding in petroleum  20 at -- between 2014 and 2020, correct?  21 A. Between 2014 and 2020? Well, 2019, it  22 started -- I believe it started slowing down. I was no  23 longer tracking it as much, but oil prices were quite  24 depressed in the late teens.  25 Q. Okay.</p>

<p>198</p> <p>1 A. And if you're following the business news now, 2 the majors are having some significant issues in the 3 markets. 4 Q. And, regardless, there's no breakout of his 5 funding that he's achieved since being at UT as a means 6 of assessing his funding? 7 A. There's no breakout in the Dean's summary, 8 that's correct. 9 Q. There's no discussion about whether or not he 10 has a trajectory or sustainability? 11 A. Well, the trajectory, my reading of this is 12 good with the -- especially with the MURI grant; and it 13 says in the next paragraph, before -- just before moving 14 to UT -- I don't know how soon before -- Dr. Foster 15 received a 1.6 million-dollar award with Mukul Sharma, 16 active member in the department, from NETL, National 17 Energy Technology Laboratory, and has received 18 additional -- and received funding from Sandia, the Army 19 Research Lab, the Army Research Office, and GE Global 20 Research. So that, to me, reads that there's a strong 21 record of funding and trajectory. 22 Q. With no indication of what's his share and no 23 indication of what the funding is from the Sandia? 24 A. That's correct in the summary. I'd have to go 25 to look at the record to see the specific data.</p>	<p>200</p> <p>1 very little funding since becoming -- since getting to 2 UT? 3 A. Yes. 4 Q. In Petroleum? 5 A. Petroleum Engineering, yes. 6 Q. Only \$200,000, despite being at UT for three 7 years? 8 A. That's correct. That's on page 16917. 9 Q. And three of the letter writers declined to 10 review her? 11 A. I -- I'll accept that as correct without 12 looking at the case. 13 Q. And, you know, Dr. Nikolova, everybody 14 responded; no -- no declinations at all, correct? 15 A. Gen- -- that is correct. Generally, 16 declinations are not a factor in the -- in the review. 17 Q. They certainly can't be a factor if everybody 18 responded? 19 MR. DOWER: Objection, form. 20 A. The response rates and the declinations -- 21 including declinations or lack of declinations are not a 22 factor with the exception of if there's a very large 23 number, like, generally exceeding ten declinations. 24 Q. (BY MR. NOTZON) And Dr. Heidari also has a 25 modest-to-low index of 11, even on Google, and only 372</p>
<p>199</p> <p>1 Q. Why wouldn't the data be there from Dean Wood? 2 A. The Dean makes a summary. She -- the record 3 is available for the President's Committee to review at 4 the time the whole case is prepared. So she's -- she's 5 making her decision about what are the factors to bring 6 forth in her summary and overall assessment and 7 recommendation. 8 Q. And she's talking all positives and no 9 negatives, despite the presence of a 3.4 teaching score, 10 an 8 -- of more than half the reviewers not responding, 11 and a very strong vote against? 12 MR. DOWER: Objection, form. 13 A. I -- I believe that Dean Wood addresses each 14 of those in her letter. 15 Q. (BY MR. NOTZON) Excuses them? 16 MR. DOWER: Objection, form. 17 A. I'm sorry. I didn't understand the question. 18 Q. (BY MR. NOTZON) Excuses them, not addresses 19 them. She excuses them. 20 A. Oh, I believe she addresses them. 21 Q. Okay. All right. Let's move on to Heidari. 22 A. Heidari. 23 (Exhibit 42 marked.) 24 Q. (BY MR. NOTZON) That's on page 16914. This 25 is, I think, the person you were talking about who had</p>	<p>201</p> <p>1 citations? 2 A. So in the field of Petroleum Engineering, 3 where most of the -- the important journals are in 4 industry conferences and specialized journals, Google -- 5 the Web of Science and Google Scholar are generally not 6 capturing them. So we -- this is very typical in the 7 field of Petroleum Engineering. 8 Q. And she's given a pass on the funding at UT 9 that says -- they're saying that funding has been low in 10 Petroleum Engineering? 11 A. That is correct. And her record at A&amp;M was -- 12 the Dean says was impressive and lists several -- 13 several awards at the top of page 16917. 14 Q. The only problem is her period of time at A&amp;M 15 and UT is consistent with Foster, who's getting millions 16 of dollars. Why is -- why is the petroleum field a 17 problem for Heidari but not for Foster? Is that 18 discussed or -- 19 A. Yeah, these were two different cases. That's 20 not discussed. I'd have to look at the specifics of 21 what his funding source was. 22 Q. Well, I mean, you said it was from 2014. And 23 here, we're looking at 2015 when she got here, so -- and 24 she was at A&amp;M before. So she would have been in 25 Petroleum Engineering at the same time as Dr. Foster,</p>

<p style="text-align: right;">202</p> <p>1 and we're talking about the same period of funding.  2 And, yet, she's given a pass of only have having  3 \$200,000 since she's gotten to UT in 2015?  4 A. So she had a significant amount of funding at  5 Texas A&amp;M. Even though they are in the same department,  6 they are very different fields. So Foster has a Ph.D.  7 in Aerospace and Aeronautics -- or Aeronautics and  8 Astronautics from Purdue; and he's applying very high  9 technology, physics-based technology and has access to  10 funding sources that are supporting that kind of work.  11 Heidari appears to be primarily in a  12 traditional area of Petroleum Engineering, important;  13 but traditional in the sense that petrophysics is almost  14 exclusively relying on industry for -- for their  15 research funding. And most of her funding -- I'm sorry.  16 Q. She can't support graduate students,  17 regardless of if there's any funding or not. I mean,  18 she can't support graduate students, correct?  19 A. That is correct. Without the funding, you  20 can't support graduate students.  21 Q. And she is going up early?  22 A. Well, she's going up early under UT's policy  23 of three years on the probationary period; but she's  24 been a total of seven years in the rank of assistant  25 professor.</p>	<p style="text-align: right;">204</p> <p>1 writing about that, did you?  2 A. No, I did not.  3 Q. And any -- do you understand that the same  4 "commitment," quote, unquote, that was made to  5 Dr. Heidari had also been made to Dr. Nikolova?  6 MR. DOWER: Objection, form.  7 A. I -- I don't know what commitments were made  8 to Dr. Nikolova.  9 Q. (BY MR. NOTZON) Okay. And whether or not  10 somebody told her that she could go up at six years of  11 assistant of professorship between A&amp;M and UT, that  12 wouldn't require UT to honor that, right?  13 A. Could -- could you repeat the question? I  14 want to make sure I understand it.  15 Q. Sure. If somebody told her as part of her  16 recruitment that she could go up at six years with  17 combined time between A&amp;M and UT, UT would not have to  18 honor that?  19 A. Would not have to honor the commitment?  20 Q. The verbal statement.  21 A. A verbal statement. We don't have an  22 obligation to -- to put a faculty member up for  23 promotion unless the Department Chair makes that  24 decision.  25 Q. And you don't have to grant tenure because</p>
<p style="text-align: right;">203</p> <p>1 Q. She could wait to see how -- if she's going to  2 get some funding, to see how her funding and trajectory  3 is going to look in the future?  4 A. She could.  5 Q. But -- but UT didn't do that with her --  6 A. Uh-huh.  7 Q. -- the year before Dr. Nikolova?  8 A. She could.  9 Q. She's a woman but didn't have a child during  10 her probationary period, didn't ask for a probationary  11 extension during her probationary period, correct?  12 MR. DOWER: Objection, form.  13 A. I do not see -- on the cover sheet, I do not  14 see that she had requested a stop-the-clock.  15 Q. (BY MR. NOTZON) Okay. And you can look at --  16 if you need to, you can look at Exhibit 35 and see that  17 she also didn't request any probationary extensions; or  18 you can take my word for it.  19 A. I -- it would -- she did not have a  20 probationary extension because it would have shown on  21 the cover sheet.  22 Q. Okay. And if you look at the end of  23 Dean Wood's assessment, the last page, it talks about a  24 commitment that had been made to Dr. Heidari to go up on  25 her clock. That -- there's -- you never saw anything in</p>	<p style="text-align: right;">205</p> <p>1 that Department Chair made that decision?  2 A. We have no obligation to grant tenure because  3 the Department Chair submitted a case.  4 Q. Was she up or out?  5 A. No.  6 Q. Okay. So she could have waited. She could  7 have -- UT could have waited; she wasn't up or out. UT  8 could have said, "Hey, she's not gotten any money. And,  9 oh, yeah, petroleum's tough right now; but let's see if  10 it's her or the field"?  11 A. Yeah, anything's -- yes, anything could --  12 could be possible.  13 Q. Okay. And go ahead and look at the summary  14 sheet, which is 1690 [sic.] That will be the  15 Exhibit 41 -- 42 is Heidari.  16 A. I'm sorry. Heidari 1690?  17 Q. 16960.  18 A. 16960.  19 Q. That will be the last page of Exhibit 42.  20 A. Yes, I have it.  21 Q. Do you see how this summary doesn't break out  22 the UT funding?  23 A. That is correct.  24 Q. So just like with Foster, it's made to look --  25 I mean, just like with -- just like with Cox, it's made</p>

<p>206</p> <p>1 to look like she's got more money than she actually has?</p> <p>2 MR. DOWER: Objection, form.</p> <p>3 A. I don't -- I can't speak to the intent. It</p> <p>4 does not break out the funding from the two</p> <p>5 institutions.</p> <p>6 Q (BY MR. NOTZON) Let's go ahead and move on to</p> <p>7 Boyles for Exhibit 43.</p> <p>8 (Exhibit 43 marked.)</p> <p>9 Q (BY MR. NOTZON) Okay. And that starts at</p> <p>10 page 12127?</p> <p>11 A. Correct.</p> <p>12 Q. He also had a negative vote from the -- wait.</p> <p>13 I think I'm reading the wrong one, Boyles.</p> <p>14 Boyles has on -- I guess in this -- in</p> <p>15 this instance Boyles is -- mentioned how much money he's</p> <p>16 gotten since he's been at UT, which is 2.3 million?</p> <p>17 A. What page are you referring?</p> <p>18 Q. Page 2, 12129.</p> <p>19 A. 12129.</p> <p>20 Q. In the middle of the page.</p> <p>21 A. Oh, I see, yes. Let me find that. Yes.</p> <p>22 Q. And -- and then down just below that there's</p> <p>23 quoted review letters --</p> <p>24 A. Yes.</p> <p>25 Q. -- saying positive things about him?</p>	<p>208</p> <p>1 A. I'm highly confident those -- those things</p> <p>2 that I reviewed recently in preparation would have been</p> <p>3 the same things I would have noticed two years ago at</p> <p>4 the time of the review.</p> <p>5 Q. And was your decision not to grant tenure to</p> <p>6 Dr. Nikolova motivated by her sex or gender?</p> <p>7 A. No.</p> <p>8 Q. And was your decision not to grant tenure</p> <p>9 motivated by her pregnancy status?</p> <p>10 A. No.</p> <p>11 MR. DOWER: Pass the witness.</p> <p>12 MR. NOTZON: Just a followup on that.</p> <p>13 FURTHER EXAMINATION</p> <p>14 BY MR. NOTZON:</p> <p>15 Q. Isn't it true that just because Dean Wood is a</p> <p>16 female and recommended against tenure for Dr. Nikolova</p> <p>17 does not mean that Dean Wood was motivated improperly by</p> <p>18 discriminatory intent based upon gender or pregnancy?</p> <p>19 MR. DOWER: Objection, form.</p> <p>20 A. If I understand the question, my answer is: I</p> <p>21 do not believe Dean Wood was motivated by any</p> <p>22 discriminatory intent.</p> <p>23 Q. (BY MR. NOTZON) Not the question. My</p> <p>24 question is: Isn't it accurate that you can't say that</p> <p>25 just because Dean Wood is a woman that she had no -- she</p>
<p>207</p> <p>1 A. Yes.</p> <p>2 Q. And then addressing potential critical</p> <p>3 comments on the next page?</p> <p>4 A. Two -- two comments, yes.</p> <p>5 Q. And explaining them away?</p> <p>6 A. She explains why she did not feel those were</p> <p>7 heavy weight in the overall deliberation.</p> <p>8 Q. Okay.</p> <p>9 MR. NOTZON: I just looked at the clock</p> <p>10 and I was expecting a reminder and I'm sorry. I went</p> <p>11 over, 5:00 -- 6:00 o'clock. And I apologize for that.</p> <p>12 I will pass the witness.</p> <p>13 MR. DOWER: President Fenves, I just have</p> <p>14 a few questions because I know that you're -- you have</p> <p>15 an appointment to make.</p> <p>16 EXAMINATION</p> <p>17 BY MR. DOWER:</p> <p>18 Q. You testified today regarding weaknesses in</p> <p>19 Dr. Nikolova's application for tenure as you perceived</p> <p>20 them, yes? Do you remember that?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And are you confident that the</p> <p>23 weaknesses you identified here today are the same</p> <p>24 weaknesses upon which you based your decision at the</p> <p>25 time?</p>	<p>209</p> <p>1 would be eliminated from having any discriminatory</p> <p>2 intent?</p> <p>3 A. I would -- that is correct.</p> <p>4 MR. NOTZON: Pass the witness.</p> <p>5 MR. DOWER: Reserve.</p> <p>6 (Deposition concluded at 5:09 p.m.)</p> <p>7 --ooOoo--</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p>210</p> <p>1 CHANGES AND SIGNATURE</p> <p>2 WITNESS NAME: DATE OF DEPOSITION:</p> <p>3 GREGORY L. FENVES May 27, 2021</p> <p>4 PAGE/LINE CHANGE REASON</p> <p>5 _____</p> <p>6 _____</p> <p>7 _____</p> <p>8 _____</p> <p>9 _____</p> <p>10 _____</p> <p>11 _____</p> <p>12 _____</p> <p>13 _____</p> <p>14 _____</p> <p>15 _____</p> <p>16 _____</p> <p>17 _____</p> <p>18 _____</p> <p>19 _____</p> <p>20 _____</p> <p>21 _____</p> <p>22 _____</p> <p>23 _____</p> <p>24 _____</p> <p>25 _____</p>	<p>212</p> <p>1 STATE OF TEXAS )</p> <p>2 REPORTER'S CERTIFICATION</p> <p>3 I, DEBBIE D. CUNNINGHAM, CSR, hereby</p> <p>4 certify that the witness was duly sworn and that this</p> <p>5 transcript is a true record of the testimony given by</p> <p>6 the witness.</p> <p>7 I further certify that I am neither</p> <p>8 counsel for, related to, nor employed by any of the</p> <p>9 parties or attorneys in the action in which this</p> <p>10 proceeding was taken. Further, I am not a relative or</p> <p>11 employee of any attorney of record in this cause, nor am</p> <p>12 I financially or otherwise interested in the outcome of</p> <p>13 the action.</p> <p>14 Subscribed and sworn to by me this day,</p> <p>15 June 16, 2021.</p> <p>16 _____</p> <p>17</p> <p>18</p> <p>19</p> <p>20 Debbie D. Cunningham, CSR</p> <p>21 Texas CSR 2065</p> <p>22 Expiration: 6/30/2021</p> <p>23 INTEGRITY LEGAL SUPPORT SOLUTIONS</p> <p>24 P.O. Box 245</p> <p>25 Manchaca, Texas 78652</p> <p>www.integrity-texas.com</p> <p>512-320-8690; FIRM # 528</p>
<p>211</p> <p>1 I, GREGORY L. FENVES, have read the</p> <p>2 foregoing deposition and hereby affix my signature that</p> <p>3 same is true and correct, except as noted herein.</p> <p>4</p> <p>5 _____</p> <p>6 GREGORY L. FENVES</p> <p>7</p> <p>8 THE STATE OF _____ )</p> <p>9 Before me, _____, on</p> <p>10 this day personally appeared GREGORY L. FENVES, known to</p> <p>11 me (or proved to me under oath or through</p> <p>12 _____) (description of identity card or other</p> <p>13 document) to be the person whose name is subscribed to</p> <p>14 the foregoing instrument and acknowledged to me that</p> <p>15 they executed same for the purposes and consideration</p> <p>16 therein expressed.</p> <p>17 Given under my hand and seal of office on</p> <p>18 this _____ day of _____, _____.</p> <p>19</p> <p>20</p> <p>21 _____</p> <p>22 NOTARY PUBLIC IN AND FOR</p> <p>23 THE STATE OF _____</p> <p>24 My Commission Expires: _____</p> <p>25</p>	





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**EXHIBIT 13**

The University of Texas at Austin

Cockrell School of Engineering

**Dean's Assessment****Evdokia V. Nikolova**

Department of Electrical and Computer Engineering

Cockrell School of Engineering

Dr. Evdokia Nikolova received her BA in applied mathematics with economics from Harvard University in 2002, an MS in computer science from Harvard in 2002, an MS in mathematics from Cambridge University in 2003, and a PhD in electrical engineering and computer science from the Massachusetts Institute of Technology in 2009. She was a post-doc at MIT for two years before joining the faculty in the Department of Computer Science and Engineering at Texas A&M University in September 2011.

In January 2014, she joined the faculty in the Department of Electrical and Computer Engineering (ECE) at UT Austin as an assistant professor. If promoted to associate professor in September 2019, she will have accumulated four years of probationary service at UT Austin. However, Dr. Nikolova will have served a total of eight years in rank as an assistant professor (2.5 years at Texas A&M and 5.5 years at UT Austin). The budget council in the Department of Electrical and Computer Engineering felt that her total time in rank was sufficient to warrant consideration for promotion this year. The Cockrell School's promotion and tenure committee agreed with this assessment.

2011-12	Texas A&M	
2012-13	Texas A&M	
2013-14	Texas A&M	UT Austin
2014-15	UT Austin	
2015-16	Simons Institute (UC Berkeley)	Modified Instructional Duties
2016-17	UT Austin	
2017-18	UT Austin	

Dr. Nikolova's research is at the intersection of operations research, theoretical computer science, and computer engineering. Her recent work has led to refinement of network routing algorithms to include uncertainty and risk aversion, with application to transportation networks and smart grids. Her work is directly related to one of the Cockrell School's crosscutting themes: modeling and simulation of complex systems and networks.

Nine external letters were submitted as part of the promotion dossier, with five letter writers selected by the budget council. All letter writers are current or former faculty members at peer universities in the US. One reviewer is a member of the National Academy of Engineering (NAE). One additional letter was requested, but the individual did not respond.

**Teaching**

While in rank, Dr. Nikolova taught one core undergraduate course and two graduate electives. During her first three semesters teaching, Dr. Nikolova's instructor ratings were 4.1 and 4.3 at the graduate level and 4.0 at the undergraduate level. These are quite strong for a new assistant professor, and indicated that she has the ability to engage her students in the classroom.

Dr. Nikolova did not teach during the 2015-16 academic year,<sup>1</sup> and since then her instructor ratings have fallen. In her three most recent courses, her instructor ratings have ranged from 3.7 to 3.9.<sup>2</sup> Dr. Nikolova attributed her reduced scores to the quality of her teaching assistants. Of particular note, Dr. Nikolova indicated that the teaching assistants are responsible for “creating and grading the homework and programming assignments.” Dr. Nikolova’s statement contradicts the philosophy within the Cockrell School that the faculty member is responsible for all aspects of the course, and critical aspects, such as developing assignments, should not be delegated to teaching assistants.

In their comments, the students did complain about grading of the programming assignments, but they also provided extensive comments about how the classes could be improved. One undergraduate student even provided a comprehensive recommendation for revising the syllabus for EE 360C. Dr. Nikolova did not address these comments in her teaching statement.

### Research

Key metrics documenting Dr. Nikolova’s publication and external funding record are summarized below:

- 12 peer-reviewed proceedings at conferences in rank at UT (6 in rank at Texas A&M, 30 total).<sup>3</sup> She published 10 conference papers with her students/post-docs at UT.
- 3 archival journal publications in rank at UT (4 total). She published one journal paper with her post-docs at UT.
- She has published papers in highly selective conferences related to algorithmic game theory and artificial intelligence, including ACM Conference on Economics and Computation (ACM EC) and International Joint Conference on Artificial Intelligence (IJCAI).
- She also published in high impact journals related to operations research, most notably *Operations Research* (IF=2.26).
- An h-index of 17 (Google Scholar) and 994 citations.<sup>4</sup>

While in rank at UT Austin, Dr. Nikolova secured two research grants totaling \$1.2 million in external funding (her share is \$0.9 million) from the National Science Foundation (NSF). As an assistant professor at Texas A&M, Dr. Nikolova secured three research grants (\$1.4 million total, \$0.7 million her share) from NSF and industry.

Dr. Nikolova is the sole PI on two grants from NSF and a Faculty Research Award from Google. Both of the other two awards from NSF include multiple investigators. Dr. Nikolova is the PI on one, and co-PI on the other. One of her current awards from NSF extends beyond the end of the 2018-19 academic year.

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<sup>1</sup> She participated in the Economics and Computation workshop at the Simons Institute for the Theory of Computing at UC Berkeley during the 2015 fall semester, and was scheduled to teach two classes in the 2016 spring semester. However, she became pregnant during the 2015 fall semester and was assigned modified instructional duties during the 2016 spring semester.

<sup>2</sup> 16.5% of the instructor ratings for T/TT faculty in the Cockrell School are 3.7 or below.

<sup>3</sup> Refereed conference papers in highly selective conferences are the primary mechanism for disseminating research results in the field of computer science.

<sup>4</sup> Dr. Nikolova’s most highly cited paper has 132 citations and is based on work completed during her graduate studies at MIT. Her most highly cited paper based on work conducted at UT Austin has 42 citations.

While Dr. Nikolova's external funding has come from highly competitive sources, approximately 70% of her funding was awarded during her first three years in rank. Only one grant has been awarded in the past four academic years. This raises questions about the sustainability of her research funding.

The letters from the external reviewers were uniformly positive and addressed technical quality of Dr. Nikolova's work, which is described as being rigorous and mathematically sound. Several referred to her leadership role in organizing the Real-Time Decision Making workshop at the Simons Institute for the Theory of Computing at UC Berkeley during the 2018 spring semester.

#### Advising and Student Mentoring

Dr. Nikolova graduated one PhD in rank at UT Austin<sup>5</sup> and she mentored one postdoctoral fellow. She is currently advising six PhD students (two are co-supervised) and one postdoctoral fellow.

#### University Service

Dr. Nikolova's service to the university has primarily been related to faculty recruiting and graduate student recruiting.

#### Professional Service

Dr. Nikolova was one of five organizers for the semester-long workshop on real-time decision making at the Simons Institute for the Theory of Computing at UC Berkeley during the 2018 spring semester.<sup>6</sup> She also was the lead organizer for a week-long program, "Mathematical and Computational Challenges in Real-Time Decision Making," which was part of the workshop.

Dr. Nikolova has also served on thirteen technical program committees for conferences in algorithmic game theory, theoretical computer science, and artificial intelligence.

#### Other Evidence of Merit or Recognition

Dr. Nikolova received a CAREER award from the National Science Foundation in 2014 and a Faculty Research Award from Google in 2013.<sup>7</sup> She and a graduate student were recognized with a best paper award at the IEEE International Conference on Acoustics, Speech and Signal Processing in 2018.

#### Overall Assessment

Dr. Nikolova has a strong publication record, she has received two prestigious awards, and she is actively engaged with the Simons Institute for the Theory of Computing at UC Berkeley.<sup>8</sup> However, her teaching record is modest and the budget council expressed concerns about her relatively weak engagement in the department.

As noted previously, the Promotion and Tenure committee strongly supported Dr. Nikolova's case. They noted the uniform support for her innovative research, and felt that her teaching was a minor concern.

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<sup>5</sup> She did not graduate any PhD or MS students at Texas A&M.

<sup>6</sup> The other four organizers were tenured faculty members at Caltech, Stanford, and UC Berkeley.

<sup>7</sup> Approximately 15% of the proposals are funded by Google.

<sup>8</sup> As noted on their website, "The Simons Institute for the Theory of Computing is the world's leading venue for collaborative research in theoretical computer science."

If this were an up-or-out case, I would likely agree with the recommendation of the Promotion and Tenure committee. However, Dr. Nikolova is being considered for promotion at UT Austin two years early. I do not believe that she has taken responsibility for improving her teaching, and I have concerns about the sustainability of her research program. These concerns are compounded by the fact that both her teaching and her external funding have dropped since she spent the 2015 fall semester at UC Berkeley.

As such, I do not believe that Dr. Nikolova's performance meets expectations for early promotion to associate professor.

A handwritten signature in black ink, appearing to read 'S. L. Wood', written in a cursive style.

---

Sharon L. Wood, Dean  
20 November 2018

# EXHIBIT 16

## Budget Council Assessment on Research for Faculty Promotion Candidate Dr. Evdokia V. Nikolova

### Summary

Assistant Professor Evdokia Nikolova leads a world-class research program in decision-making, specifically in the context of risk, with an emphasis on rigorous theoretical foundations and important applications that have a wide range of societal impacts. Dr. Nikolova has made foundational contributions in understanding the resulting equilibria, with important implications in many areas, e.g., the design of road tolls. She has a solid publication record, with 30 conference papers and 4 journal papers. Her work has received high recognition in academia (e.g., NSF CAREER Award 2014) and industry (e.g., Google Faculty Research Award 2013). Dr. Nikolova's research accomplishments clearly support her promotion to Associate Professor with tenure.

### Research Area and Contributions

Dr. Evdokia Nikolova's research concerns decision-making in network contexts, simultaneously representing the effects of risks and multiple decision makers. Risk has been recognized in recent decades as being very important to decision making, having perhaps first been studied in the context of financial decision-making. Risks arise because of uncertainty about various parameters that determine outcomes, and therefore uncertainty is present in essentially all systems. Consequently, the implications of risk is pervasive. Important examples where risk has a significant role in decisions include transportation and energy, where there is an underlying network. In these domains, and indeed in most areas of societal interaction, there are also multiple entities that make decisions based on their own priorities that may interact and conflict with each other. Congestion on roads is a canonical network example where the resulting decisions, or equilibrium, may result in over-utilization of road resources compared to a notionally optimal utilization of the road network. The deviation of outcomes in equilibrium from the notionally optimal utilization, and the resulting efficiency loss compared to optimal, is a useful way to evaluate the implications of decision-making.

An important insight by Dr. Nikolova is that risk can greatly affect decision-making, with a resulting further efficiency loss compared to optimal utilization due to incorporation of risk into the objectives of decision-makers. Dr. Nikolova's key contributions are in recognizing and analyzing the effect of risk on equilibrium. Her work has specific application in models of transportation and energy networks and more general applications in other network equilibrium settings, including energy and telecommunications.

Dr. Nikolova takes a mathematically rigorous approach to her analysis of risk in decision-making. Her work has systematically added consideration of risk into the computational determination of the equilibrium resulting from the interaction of decision-makers that have differing objectives. Her research has explored the modeling issues in representing risk and the way in which risk affects the game-theoretic performance of the system, defining the notion of the "price of risk aversion," which measures the worsening of equilibrium outcomes due to the risk-aversion of decision-makers. The paragraphs below discuss her intellectual and methodological contributions in three interrelated areas.

First, Dr. Nikolova's research has made significant contributions in **decision-making under risk**, including modeling risk in network routing with the mean-standard deviation risk model. This work recognizes that an objective that considers not just expected travel time, but also includes a multiple of the

standard deviation of travel time, can represent practical decision-making by realistic users through adding a “buffer.” A careful and clear model is developed in several contexts to provide rigorous results on the price of risk aversion. By developing the analysis in an abstracted format, Dr. Nikolova provides several new results that are applicable to a variety of network contexts, including but not limited to road congestion, collectively constituting a unified analysis of the implications of the risk model on the efficiency of the resulting equilibrium. Her work also helps in understanding the sensitivity of the efficiency of the resulting equilibrium to risk averseness. This has important implications in models of a variety of human endeavors, from road and telecom congestion to electricity markets. She has also considered other risk-related objectives, including a mean-variance risk model.

Dr. Nikolova’s second line of research considers the **interaction of users of tolled facilities and the owners** who set tolls. Road networks are a canonical example of this model. This work develops an important insight that by setting maximum prices caps on tolls, the network regulator can induce an equilibrium that maximizes the efficient use of the system. As in the analysis of risk, this work is characterized by a rigorous derivation of the equilibrium conditions, including analysis of various alternative arrangements that clarify the tradeoffs and implications of various detailed alternative arrangements and of the diversity of users. A compelling topological analysis is part of the overall development. Since certain topological structures (series-parallel networks and the Braess network) are also common in other networks, including electric power systems, some of the insights have even broader implications.

The third area is another network setting, namely in the **reconfiguration of electric distribution systems**. This area has received recent attention in part because the revolution of increased telemetry and control as part of the so-called “smart grid” can greatly enhance the ability to rearrange connections in the electric distribution system to achieve certain objectives such as minimizing losses or maximizing reliability. This work concerns a novel formulation of the loss minimization problem that allows for better understanding of algorithms applied to this problem.

## **Publications and Impact**

Dr. Nikolova’s publication record is very strong. Her research has resulted in 30 conference papers (12 since joining UT). All of these conferences are peer-reviewed conferences with archived proceedings, and most are highly selective with acceptance rates of 30% or less. She has also published 4 journal papers, including one in *Operations Research* and another in *Mathematics of Operations Research*, which are extremely selective high-impact journals. Her publications include several papers at ACM and IEEE conferences, spanning computer science, networking, computational economics, and power systems. Her h-index on Google Scholar is 17, and the h-index since 2013 is 14, which are strong numbers for a researcher developing new theoretical and algorithmic tools.

## **Research Funding**

Dr. Nikolova has received an NSF Career Award and a Google Faculty Research Award. The Google Faculty Research Award is indicative of the value of her research to industry.



## Peer Comparisons

Name/Area	Institution	Title	Dates (PhD / start of current rank)	Pubs in top venues (in rank /total)	Cites current / Cites when promoted	H-index now/when promoted	Awards
<u>Evdokia Nikolova</u>	UT Austin	<u>Assist Prof</u>	2009 / <u>2011</u>	<u>16</u> / 26	955 / <u>955</u>	17 / <u>17</u>	NSF Career 14, Google Faculty 13, Fell: 06, 03, 02, 01  Patents: 10, 09, 08  Student Best Pr: 18
Shaddin Dughmi	USC	Assoc Prof	2011 / 2017	14 / 29	934 / 803	17 / 16	NSF Career 14,  Best Paper 11,  Best Thesis 11
Vineet Goyal	Columbia	Assoc Prof	2008 / 2017	14 / 19	737 / 668	17 / 15	NSF Career 14,  IBM Faculty 14,  Google Faculty 13,  Fellow: 03
Anup Rao	Univ of Washington	Assoc Prof	2007 / 2016	14 / 26	1490 / 942	19 / 15	NSF Career 12,  Best Paper 06, 16  Fellow: 03, 09

<b>Seth Pettie</b>	<b>Univ of Michigan</b>	<b>Assoc Prof</b>	<b>2004 / 2012</b>	<b>15 / 27</b>	<b>2259 / 832</b>	<b>24 / 16</b>	<b>NSF Career 08, Outst Dissert 04</b>
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### **Conclusion**

To summarize, Professor has established an accomplished research program specializing in the implications of risk, with applications in multiple areas. Her publications and awards amply demonstrate that she is deserving of promotion.

### **Basis for Evaluation**

This statement on the research of Assistant Professor Dr. Evdokia Nikolova was prepared by Budget Council Members Professors Ross Baldick and Sarfraz Khurshid. This statement was prepared following a review of her vita, her research papers, her external letters, and knowledge of her research.



Ross Baldick



Sarfraz Khurshid

# EXHIBIT 17

## **Budget Council Assessment on Service to the University and to the Nation, State and Community for the Promotion Candidate Evdokia Nikolova**

This statement on service to the university, the nation, state and the community of Professor Evdokia Nikolova was prepared by the Budget Council Member Professor Vijay K. Garg. It makes an assessment of services performed by Prof. Nikolova in rank as an Assistant Professor.

### **Service to the University**

Prof. Nikolova has made immense contributions to the Department and the University serving in various roles.

In the department, she has served as a member of the junior faculty hiring committee multiple times. This committee screens all the candidates, makes a presentation to the department for approval to interview them, hosts the candidates for interviews, collects the feedback from various faculty members and then makes recommendations to the department. Having served on this committee numerous times, I can attest to the time commitment the membership on this committee entails. Prof. Nikolova has represented the DICE area on this committee. The DICE area has interviewed excellent candidates during the time when Prof. Nikolova was representing DICE.

In addition to serving on the ECE faculty hiring committee, Prof. Nikolova has served as an external member of the ORIE junior faculty hiring committee. Typically, a department invites only the most well-known and renowned faculty members from other departments to serve on their faculty hiring committee. Prof. Nikolova has contributed to the mission of the University by serving on this committee.

Prof. Nikolova has continuously served as a member of the Admissions Committee for the DICE area since 2014. The admissions committee requires an inordinate amount of work because of a large volume of applications to the DICE area. All aspects of the student application must be considered, with students from many countries and universities of varying quality and different grading systems. Prof. Nikolova has made significant contributions to the department by serving on this committee.

Prof. Nikolova has taken a leadership role in organizing workshops. Of particular note is the 2014 Winedale workshop for which she served as the program chair. The invitation to be the program chair is given to only the most well-regarded researchers in the area. The program chair's duties require significant commitment but bring recognition to the PC chair and the associated University. The Winedale workshop was a great success with more than 200 attendees from Texas region.

### **External Service**

Prof. Nikolova has been extraordinarily engaged in professional service to the international academic community via organization of many prestigious workshops. She has organized or

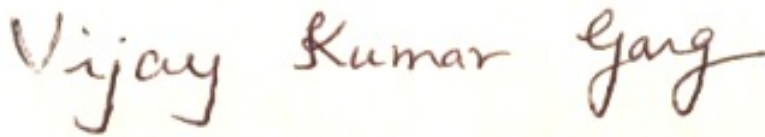
co-organized workshops at Simons Institute, and ACM Conference on Electronic Commerce. Simons Institute for the Theory of Computing at Berkeley is one of the most prestigious institutes for Theoretical Computer Science and some of the most famous scientists and mathematicians regularly visit the institute. It is quite remarkable that Prof. Nikolova was invited to organize a workshop there at her stage of career. The ACM Conference on Electronic Commerce is a premier conference on issues related to algorithmic game theory, economics and computation.

Prof. Nikolova has also been a great mentor for the next generation of scientists. She gave lectures at Samos Summer School on Algorithmic Game Theory. She has also been involved in community service. Specifically, she has participated in the immensely popular Edison Lecture Series at UT Austin.

Prof. Nikolova has also served in various US National Science Foundation (NSF) review panels and served as a member of the panel to review projects for FONDECYT, which is NSF equivalent for Chile.

In summary, Prof. Nikolova has performed service to the University and the professional community that is significantly above the level of an assistant professor.

Summary prepared by the Budget Council Member Professor Vijay K. Garg.

A handwritten signature in brown ink that reads "Vijay Kumar Garg". The signature is written in a cursive style with a yellow rectangular highlight behind it.

# EXHIBIT 18

## **Budget Council Assessment on Teaching Performance for Faculty Promotion Candidate Evdokia Nikolova**

This report was prepared by Budget Council Members Professor Christine Julien and Professor Jon Valvano and is their evaluation of Dr. Nikolova's teaching record.

Evaluation Procedure: The evaluation procedure includes reviewing (a) Dr. Nikolova's teaching portfolio; (b) course evaluations by peers as well as students; (c) graduate research supervision activities; (d) peer assessments of her classroom performance; and (e) her performance in comparison to other Assistant Professors in the department.

### **Teaching Statement and Philosophy:**

Dr. Nikolova values teaching at all levels: from graduate research advising, to graduate teaching, undergraduate teaching, and even fostering the next generation of engineering students. Her philosophy balances the formal and fundamentals with practical examples, even in the most advanced abstract graduate courses. She also has a history of meaningfully weaving research exposure and experience into the classroom, even in undergraduate courses.

While at UT, Dr. Nikolova has introduced two new graduate courses and stepped in to fill a much needed role in a high-demand undergraduate course. The latter course is a course with a long history in the ECE department, but Dr. Nikolova has worked to put her own stamp on the course while also contributing to a team effort to unify the sections of the course. She has contributed in many other ways to the department's teaching mission, including reaching newly enrolling students through Camp Texas and teaching future students through the Edison Lecture Series.

### **Course Evaluation:**

While in rank as an Assistant Professor in the UT ECE department, Dr. Nikolova has taught one undergraduate course multiple times and introduced two much-needed graduate courses. At the undergraduate level, she has taught EE360C: an upper division course that is nonetheless required for a very large fraction of ECE undergraduate students. Dr. Nikolova has taught this course four times, and she was among the first instructors to "team teach" the course, keeping multiple sections offered in the same semester "in step" with the same assignments, lecture material, TAs, etc. This innovation has since transferred across the many instructors of the course. Dr. Nikolova (along with her teammate Dr. Soloveichik) also noticed that the students in EE360C would greatly benefit from more individualized instruction. To address this, the pair initiated voluntary recitation sections, which the students have greatly appreciated. This practice has since also been adopted by other instructors of the course. Across the four sections of this

course Dr. Nikolova has taught while at UT, she has maintained an average instructor rating of 3.9 and an average course rating of 3.5, both of which are in line with the averages of all other instructors of the course at 3.8 and 3.7. Students comment on her willingness to engage with the class and to spontaneously try examples from the students. The students also explicitly noted the usefulness of the weekly problem-solving sessions that Dr. Nikolova introduced to this course.

*Typical positive comments from her CIS (undergrad EE360C)*

“good teacher” “learned a lot”

“easily reachable” “awesome”

“engaging” “patient”

“dedicated and enthusiastic”

“passion for teaching”

“knowledgeable”

“The professor is great” “super helpful” “cares about students”

*Example negative comments from her CIS (undergrad EE360C)*

“wish she had more office hours”

“explained poorly, went too fast”

“good class, great material, boring lectures”

“write bigger on the board” “handwriting is too small”

At the graduate level, Dr. Nikolova has introduced two new courses to the curriculum, filling a much-needed gap in formal algorithm instruction in the ECE department. She has offered an Advanced Algorithms course that focuses on approximation algorithms. Even with the difficult abstract material, Dr. Nikolova makes an extensive effort to integrate real-world application examples to make the material more accessible to students from wide-ranging backgrounds. In two offerings of this course, Dr. Nikolova’s average instructor rating and course rating are 4.1 and 3.8, respectively. The second graduate course Dr. Nikolova has offered at UT is a graduate course in Game Theory. This is also new to the curriculum and covers an advanced topic; Dr. Nikolova’s ratings for this course are similarly high at 4.1 for both the instructor and course ratings. In the limited available written comments for her graduate courses, students do highlight Dr. Nikolova’s obvious motivation and enthusiasm for the material.

*Typical positive comments from her CIS (grad EE381V)*

“high level of energy”

“difficult, but I learned a lot”

“great course”

*Example negative comments from her CIS (grad EE381V)*

“no enthusiasm makes most classes boring”

“have solutions for homework”

### **Peer Evaluations:**

Our faculty’s peer evaluations of Dr. Nikolova’s teaching repeatedly identify her interactive teaching style and use of the board for lectures as substantially contributing to her effectiveness as a teacher. Further, Dr. Nikolova has stepped into the rotation of a high demand undergraduate course (EE360C) that comes with many inherent challenges. While reaching all of the students in this large lecture class format is very difficult, the peer observations highlight multiple strategies that Dr. Nikolova has employed (e.g., frequent quizzes, lecture style, etc.) that aim to increase student engagement and improve her already high effectiveness.

#### *Quotes from her peer evaluations:*

“Overall, EE381V is an excellent class, well run and well taught by an outstanding young professor” (4/2/2015 EE381V – Advanced Algorithms, Professor Chase)

“I found her approach, blending intuition, motivation and also rigorous derivation, to be very effective.” (3/31/2017 EE381V – Advanced Algorithms, Professor Caramanis)

“I generally found her teaching style, board work, and broader teaching techniques (like the quizzes) to be effective. Evdokia has a very clear teaching style. She is well prepared and organized. And she appeared to try hard to engage the class” (12/7/2017 EE360C Algorithms, Professor Caramanis)

### **Graduate Research Supervision:**

Dr. Nikolova’s research supervisions have been at or above expectations for an assistant professor in the ECE department. She makes a conscious effort to focus on building a *team* while also developing individual skills in her students that go beyond just basic research execution. While in rank, Dr. Nikolova has one PhD student who will graduate in August, successfully advised one post-doctoral researcher, and grown a vibrant group of six graduate researchers.

### **Summary:**

Dr. Nikolova takes her teaching obligations very seriously and has strived to improve her teaching effectiveness while still addressing the needs of the ECE department and its students. Along with Dr. Soloveichik, she has added a “Lunch with the Professors” component of EE360C



to give the students more access to informal mentoring and advising. In closing, Dr. Nikolova is passionate about teaching, which comes across to her students and results in a highly effective style. Her teaching record clearly exceeds the expectation for an Assistant Professor in the Department of Electrical and Computer Engineering.

Statement prepared by Budget Council Members Professors Christine Julien and Jonathan Valvano

The image shows two handwritten signatures in black ink. The signature on the left is for Christine Julien, written in a cursive style. The signature on the right is for Jonathan Valvano, also in a cursive style.

# EXHIBIT 19

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

EVDOKIA NIKOLOVA  
Plaintiff,

V.

UNIVERSITY OF TEXAS AT  
AUSTIN,  
Defendant.

\*  
\*  
\*  
\*  
\*  
\*  
\*

CASE NO. 1:19-cv-00877-RP

ORAL VIDEOTAPED AND VIDEOCONFERENCED DEPOSITION

OF

EVDOKIA NIKOLOVA,

Tuesday, June 29, 2021

ORAL VIDEOTAPED AND VIDEOCONFERENCED  
DEPOSITION OF EVDOKIA NIKOLOVA, produced as a witness at  
the instance of the Defendant, and duly sworn, was taken  
in the above-styled and numbered cause on Tuesday,  
June 29, 2021, from 9:02 a.m. to 5:59 p.m., before  
Debbie D. Cunningham, CSR, in and for the State of  
Texas, reported remotely via Machine Shorthand, pursuant  
to the Federal Rules of Civil Procedure.

--ooOoo--

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<p>6</p> <p>1 (Tuesday, June 29, 2021, 9:06 a.m.)</p> <p>2 P R O C E E D I N G S</p> <p>3 Today is Tuesday, June 29, 2021. This is the</p> <p>4 videoconferenced deposition of Evdokia Nikolova in the</p> <p>5 matter of Nikolova versus UT.</p> <p>6 Due to the COVID-19 Pandemic we are remotely</p> <p>7 situated, and we are on the record at 9:06 a.m. Central</p> <p>8 Standard Time.</p> <p>9 My name is Debbie Cunningham, and my business</p> <p>10 address is P.O. Box 245, Manchaca, Texas 78652.</p> <p>11 Would all counsel present please introduce</p> <p>12 themselves for the record, starting with Plaintiff's</p> <p>13 counsel?</p> <p>14 MR. SCHMIDT: Yes, I'm Robert or Bob</p> <p>15 Schmidt; and I'm also here with Robert Notzon, for the</p> <p>16 Plaintiff, Dr. Nikolova.</p> <p>17 MR. DOWER: And Benjamin Dower, here with</p> <p>18 my colleague, Amy Hilton, for the Defendant, the</p> <p>19 University of Texas at Austin.</p> <p>20 (Witness sworn by the reporter.)</p> <p>21 MR. DOWER: All right. Before we get</p> <p>22 started, the parties have a few stipulations that I will</p> <p>23 just briefly read into the record. First, the parties</p> <p>24 stipulate that this deposition may be taken remotely via</p> <p>25 Zoom. The parties stipulate that "objection, form" is</p>	<p>8</p> <p>1 we, obviously, have a court reporter here who's creating</p> <p>2 a transcript.</p> <p>3 So first, just a very few sort of tips</p> <p>4 and a few introductory remarks to make sure that we're</p> <p>5 on the same page. First, you understand that you're</p> <p>6 under oath here today?</p> <p>7 A. Yes.</p> <p>8 Q. And so that's the same oath as if we were in</p> <p>9 court. Do you understand that?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And as part of the fact that we have a</p> <p>12 stenographer who's writing down whatever anyone is</p> <p>13 saying, which, for me will involve a lot of "okays"</p> <p>14 because I tend to use that as a verbal tick after I get</p> <p>15 an answer to every question; but what I'm trying to get</p> <p>16 to is that because there's a court reporter creating a</p> <p>17 transcript, it will be very important that we try not to</p> <p>18 talk over each other. When -- when people are talking</p> <p>19 simultaneously, it makes the court reporter's job really</p> <p>20 difficult; and so we want to make sure that</p> <p>21 Ms. Cunningham's job is as easy as possible. So I would</p> <p>22 just ask that if I'm asking you a question, will you</p> <p>23 please let me go ahead and finish the question, even if</p> <p>24 you think you know what I'm about to say, just to avoid</p> <p>25 muddying the record?</p>
<p>7</p> <p>1 sufficient to preserve objections to the form of the</p> <p>2 questions and will be used in lieu of the more specific</p> <p>3 form-based objections. And, third, the parties</p> <p>4 stipulate that all objections except as to the form of</p> <p>5 question or answer are reserved until trial.</p> <p>6 And, Bob, anything you'd like to add or</p> <p>7 disagree with?</p> <p>8 MR. SCHMIDT: No. You said it perfectly,</p> <p>9 Mr. Dower. Thank you --</p> <p>10 MR. DOWER: All right.</p> <p>11 MR. SCHMIDT: -- Ben.</p> <p>12 EVDOKIA NIKOLOVA,</p> <p>13 having been duly sworn, testified as follows:</p> <p>14 EXAMINATION</p> <p>15 BY MR. DOWER:</p> <p>16 Q All right. So Dr. Nikolova, before we get</p> <p>17 started, have you ever been deposed before?</p> <p>18 A. No.</p> <p>19 Q. Okay. Well, you can relax. I promise that</p> <p>20 it's not going to be as bad as whatever you're</p> <p>21 imagining.</p> <p>22 So a deposition is basically just a very</p> <p>23 one-sided conversation where I'm going to be asking you</p> <p>24 questions. It's sort of like an interview, with the</p> <p>25 main difference being that you're under oath and that</p>	<p>9</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And, similarly, I will do my very best</p> <p>3 never to cut you off or start speaking until you're</p> <p>4 finished speaking.</p> <p>5 Another part of this is that because</p> <p>6 there's a transcript being created, answers need to be</p> <p>7 verbal. So a head nod or a head shake won't show up in</p> <p>8 a transcript. So if you're indicating, you know, an</p> <p>9 affirmative response to something or a negative response</p> <p>10 to something, go ahead and please use the word "yes" or</p> <p>11 "no" to go ahead and give that response so it will show</p> <p>12 up in the transcript. Can we have an agreement on that?</p> <p>13 A. Yes.</p> <p>14 Q. Perfect. And if you ever don't understand a</p> <p>15 question I'm asking, I promise I'm not trying to trick</p> <p>16 you. It's probably because I asked a confusing</p> <p>17 question; and so if I ever ask a question that you don't</p> <p>18 understand, can we agree that you will, please, ask me</p> <p>19 to clarify it? I promise I won't take offense to it. I</p> <p>20 just want to make sure that you understand all my</p> <p>21 questions before you answer any of them.</p> <p>22 A. Yes.</p> <p>23 Q. Okay.</p> <p>24 A. And I just wanted to add that you broke up a</p> <p>25 few times there and my computer says to me that my</p>

<p>10</p> <p>1 internet connection is unstable; but let's -- let's 2 proceed, maybe. 3 Q. Well, I don't -- I mean, I'm concerned that I 4 don't want to get into substantive things. 5 MR. DOWER: Yeah, go ahead, Bob. 6 MR. SCHMIDT: I'm sorry to interrupt you, 7 but why don't we take a five-minute break? And I'll see 8 if there's another way to help make sure that her 9 internet is better. 10 MR. DOWER: Sure. 11 THE REPORTER: We're going off the record 12 at 9:12 a.m. 13 (Off the record from 9:12 to 9:20 a.m.) 14 THE REPORTER: We're going back on the 15 record at 9:20 a.m. 16 Q (BY MR. DOWER) Okay. So before we had the 17 technical issue, ironically, I think I was -- I was 18 getting your agreement that if you didn't understand a 19 question I was asking, that you would agree to tell me 20 so that I could try asking it a different way; and so do 21 we have that agreement? 22 A. Yes. 23 Q. Okay. And so if you -- if you do answer the 24 question, can I then assume that you understood it? 25 A. Yes.</p>	<p>12</p> <p>1 A. Yes. 2 Q. Okay. And so without revealing the contents 3 of conversations with your attorneys, what did you do to 4 prepare today -- or for today? 5 A. I met with my attorneys. I reviewed my 6 e-mails, text messages, and documents related to my 7 tenure case. 8 Q. Okay. Can you tell me what -- what documents 9 you reviewed? 10 A. Let me try to remember the list. I reviewed 11 my two statements; the Dean's letter for my tenure case; 12 the Chair's letter for my tenure case; the Dean's letter 13 for one of the comparators, Dr. Mohit Tiwari; the 14 Chair's letter for one of the comparators, Dr. Mohit 15 Tiwari; the Complaint that I filed, the Complaint; the 16 Interrogatories; the -- some of the other -- some other 17 documents that I had prepared, Modified Instructional 18 Duties, letters that I had submitted. 19 I'm blanking out on more. 20 Q. That's -- that's fine. 21 A. That's most of them, yeah. 22 Q. All right. You mentioned text messages. Do 23 you remember which text messages those were? 24 A. I reviewed text messages that I had between 25 myself and my former Department Chair, Dr. Ahmed Tewfik,</p>
<p>11</p> <p>1 Q. Okay. And I don't -- I'm not trying to get 2 invasive with this question, but are you on any 3 medication that would affect your ability to -- to speak 4 truthfully here today? 5 A. No. 6 Q. Okay. I think the last sort of introductory 7 point is just that, you know, I think this is going to 8 be a fairly long conversation because there's a lot to 9 talk about. Breaks are not only expected but mandatory 10 because no one's going to be able to make it 11 uninterrupted through this whole thing. 12 So if you want to take a break at any 13 time, just let me know. The only thing I'll ask is if 14 there is a question pending, that you go ahead and 15 answer the question before we take the break; but 16 subject to that, you know, please just let me know and 17 we can take a bio break or whatever we need. Do you 18 understand that? 19 A. Yes. 20 Q. Okay. I want to start out just by asking a 21 few questions about what you did to prepare for today, 22 and I'll preface it with: I am not going to ask you 23 what you talked about with your attorneys. So please 24 don't disclose any of that. I'm not asking that. But 25 did you do anything to prepare for today's deposition?</p>	<p>13</p> <p>1 and also between myself and my former mentor, 2 Professor Sanjay Shakkottai. 3 Q. And do you know whether all of those text 4 messages have been provided -- whether those text 5 messages have been provided to -- to us, I guess, UT's 6 attorneys, without disclosing any conversations with 7 your counsel? 8 A. So I provided them to my attorneys, and I 9 believe that the ones between myself and my Chair have 10 been provided by my attorneys to you. I'm not sure 11 about the ones between Professor Sanjay Shakkottai and 12 myself. 13 Q. Okay. And what were the -- the text messages 14 with Sanjay about? 15 A. They were -- it was the entire history that 16 I -- the entire text message history that I had with 17 him, from beginning to end. So anything, setting up 18 meetings; then, later, discussing -- mainly setting up 19 meetings. Yeah, I haven't really discussed major 20 content over text messages with -- with him. 21 Q. Did you ever discuss anything about your 22 tenure application? 23 A. Yes. So I believe one of the text messages 24 from Sanjay to me was right after the informal 25 department meeting when the Department voted on my case</p>

<p>14</p> <p>1 before I started the official tenure process, when they 2 voted whether to give me the green light to go up or 3 not. And Sanjay Shakkottai had presented my case to the 4 Department; and after the meeting, he texted me that 5 there were no issues and that it went fine. 6 Q. Okay. Did you have any text messages with him 7 about your concerns about either sex discrimination or 8 pregnancy discrimination? 9 A. I don't believe that I have any on texts. I 10 recall that I had one phone conversation that may have 11 sort of hinted at it, but I don't think we ever used the 12 word "discrimination" or anything like that. 13 Q. Okay. Do you remember when that -- 14 (Simultaneous speakers.) 15 Q. Sorry. 16 A. I'm sorry. 17 Q. And that will happen, and don't worry about 18 it. We'll both just stumble over each other 19 apologizing. Not a big deal. 20 Do you remember when that conversation 21 occurred? 22 A. Yeah, it was about one month after I'd given 23 birth to my second child, to my daughter, Elitza. And 24 Sanjay called me on the phone; and he said, "Oh, I'm 25 just calling to alert you that Ahmed has sent you an</p>	<p>16</p> <p>1 Q. (BY MR. DOWER) So the way it will work is I 2 will drag -- drop and drag the file into the chat; and 3 so in your Zoom chat you should see a PDF that has just 4 been sent to everyone. And then, if you click twice on 5 it -- or maybe you have to hit those little ellipses in 6 the top right corner -- it should prompt you to download 7 it. 8 And what I would suggest -- and I don't 9 want to micromanage your process -- but I would suggest 10 creating some sort of folder, a temporary folder or 11 something, to save all these PDFs that we may be 12 referring to throughout today. That way, if we refer 13 back to one that we looked at earlier, it will be easier 14 for you to find. Obviously, you don't have to do that. 15 I just -- it'll probably make it easier. 16 A. Thank you. I've just hit download. Let me -- 17 let me look into organizing and creating a folder. 18 Q. Take your time. 19 MR. SCHMIDT: Can we take a short break? 20 I'm having some technical difficulties on my end. 21 MR. DOWER: Sure. 22 THE REPORTER: We're going off the record 23 at 9:30 a.m. 24 (Off the record from 9:30 to 9:35 a.m.) 25 THE REPORTER: We're going back on the</p>
<p>15</p> <p>1 e-mail which is a little harsh." 2 Q. Okay. And you said that was about a month 3 after you gave birth to your second child. So would 4 that have been around either late July or early August 5 of 2018? 6 A. That sounds right. 7 Q. Okay. And so in the conversation with him, 8 you mentioned -- or you mentioned -- I guess, what can 9 you tell me about that conversation? What do you 10 recall? 11 A. I think it was a very brief conversation, 12 mainly, with him because I didn't know the contents of 13 the e-mail; and Sanjay was mainly just kind of giving me 14 a warning sign because he knew my situation. And I 15 think he mainly was trying to be helpful, and so he just 16 was alerting to me that there is an e-mail that I -- he 17 felt was harsh -- 18 Q. Okay. 19 A. -- so I'd sort of psychologically prepare for 20 that. 21 Q. And let me -- okay. This is getting a little 22 bit ahead of myself; but since we're talking about it -- 23 this will also be our first dry run at uploading a 24 document as an exhibit. 25 (Exhibit 70 marked.)</p>	<p>17</p> <p>1 record at 9:35 a.m. 2 Q. (BY MR. DOWER) All right, Dr. Nikolova. So I 3 just uploaded what's been marked as Exhibit 70, and 4 would you agree with me that this is a few e-mails back 5 and forth between you and Dr. Tewfik? 6 A. Yes. 7 Q. Okay. Do you recall, is this the e-mail 8 exchange that you were referring to a minute ago where 9 Sanjay called you to warn you there was an e-mail coming 10 with a harsh tone? 11 A. Yes. 12 Q. Okay. Cool. And so in -- so first of all, 13 the -- the first e-mail in the thread, which is the 14 bottom one when you're looking at the document, is an 15 e-mail on August -- or dated August 2nd, 2018; is that 16 correct? 17 A. Yes. 18 Q. Okay. And so this is from Dr. Tewfik; and he 19 says that, "It has come to my attention that you are 20 having your fiance and perhaps one of your students work 21 on your promotion dossier. This will have to stop 22 immediately." Did I read that correctly? 23 A. Yes. 24 Q. Okay. And so -- so at this time were you in 25 the process of assembling your dossier for the tenure --</p>

<p>18</p> <p>1 for the tenure decision for the 2018-'19 academic year?</p> <p>2 A. I had already submitted all the documents that</p> <p>3 I was told would be needed for my tenure dossier before</p> <p>4 my daughter was born, so around early June of that year;</p> <p>5 and I think this was regarding some clarifications that</p> <p>6 were requested on the documents I had already submitted.</p> <p>7 Q. Okay. And so in the second sentence, when</p> <p>8 there's a request for a response to -- is it "Jilda"?</p> <p>9 Is that how you pronounce it?</p> <p>10 A. I believe so.</p> <p>11 Q. Okay. Do you recall what her request was?</p> <p>12 A. I don't recall her request. I only recall</p> <p>13 that it was a request on maybe modifying documents</p> <p>14 somehow.</p> <p>15 Q. Okay. And so what had happened was that your</p> <p>16 fiancé had written an e-mail on your behalf the day</p> <p>17 before, and that's what triggered this e-mail?</p> <p>18 A. Yes.</p> <p>19 MR. SCHMIDT: Objection, form.</p> <p>20 Occasionally, Dr. Nikolova, I'll object</p> <p>21 and say, "Objection, form." But disregard it and</p> <p>22 continue on with your answer.</p> <p>23 Q. (BY MR. DOWER) So, first of all, is your</p> <p>24 then-fiancé, is that Jimmy Horn?</p> <p>25 A. Yes.</p>	<p>20</p> <p>1 THE REPORTER: I'm sorry. I missed after</p> <p>2 "yes."</p> <p>3 THE WITNESS: I'm sorry?</p> <p>4 THE REPORTER: I missed what you said</p> <p>5 after "yes."</p> <p>6 THE WITNESS: Yes, I believe so.</p> <p>7 THE REPORTER: Thank you.</p> <p>8 Q. (BY MR. DOWER) Is there -- there's also a</p> <p>9 reference in here to perhaps one of your students</p> <p>10 working on your promotion dossier. Did any of your</p> <p>11 students ever work on your promotion dossier?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And who was that?</p> <p>14 A. Ali Khodabakhsh was one -- I had two students.</p> <p>15 So Ali Khodabakhsh was one of them, and Ger Yang was the</p> <p>16 other one.</p> <p>17 Q. And I anticipate Debbie may need some help</p> <p>18 with the spellings. Could you go ahead and spell those</p> <p>19 names real quick?</p> <p>20 MR. SCHMIDT: If you know them.</p> <p>21 Q. (BY MR. DOWER) Yeah, if you know.</p> <p>22 A. Yeah. Ali will be a hard one. So the first</p> <p>23 name is A-L-I. The last name, I'll do my best.</p> <p>24 K-H-O-D-A-B-A-K-H-S-H. I may be slightly off on the</p> <p>25 last name.</p>
<p>19</p> <p>1 Q. Okay. Is it -- I want to make sure I refer to</p> <p>2 him appropriately. Is it Mr. Horn? Is that how I</p> <p>3 should refer to him?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. I don't want to be overly familiar by</p> <p>6 using a first name. So, okay. So, Mr. Horn, was he</p> <p>7 helping you prepare your dossier?</p> <p>8 A. No. I'm trying to remember. So he did help</p> <p>9 minorly at some point, and I believe it was after that</p> <p>10 e-mail. He had not provided help before that e-mail,</p> <p>11 and he provided minor help. I think it was there was a</p> <p>12 document where my publications were chronologically</p> <p>13 ordered, and then they had to be provided in reverse</p> <p>14 chronological order or something like that. And I think</p> <p>15 he helped me with that one formatting change.</p> <p>16 Q. Okay.</p> <p>17 A. But I believe that was after that e-mail. So</p> <p>18 up until that time, he had not provided any help.</p> <p>19 Q. So this -- the main complaint here was that he</p> <p>20 was -- he was interfacing with UT regarding -- you know,</p> <p>21 regarding follow-ups about the dossier; is that -- is</p> <p>22 that correct?</p> <p>23 A. Yes --</p> <p>24 Q. Okay.</p> <p>25 A. -- so.</p>	<p>21</p> <p>1 Q. And then the second student?</p> <p>2 A. The second student is Ger, G-E-R; and the last</p> <p>3 name is Yang, Y-A-N-G.</p> <p>4 Q. Thank you.</p> <p>5 So what did Ali and Ger do to help with</p> <p>6 the dossier?</p> <p>7 A. I asked them for minor editing help where it</p> <p>8 wasn't the actual substance of the document but</p> <p>9 formatting, like tasks that basically were very time</p> <p>10 consuming; but they didn't require, really, any input</p> <p>11 from me. And so it was like: Okay. Make the margins,</p> <p>12 instead of one point whatever make them one-something or</p> <p>13 make the font whatever, make sure that the document</p> <p>14 fits -- with those tweaks, make sure the document fits</p> <p>15 in four pages, instead of five pages, things like that.</p> <p>16 Q. Okay. I'm going to show you another document.</p> <p>17 Give me one second to find it and upload it.</p> <p>18 MR. DOWER: I believe this will be marked</p> <p>19 as 71.</p> <p>20 (Exhibit 71 marked.)</p> <p>21 Q. (BY MR. DOWER) And just let me know when</p> <p>22 you've got that downloaded and open.</p> <p>23 A. I have it downloaded and open.</p> <p>24 Q. Okay. And so this is an e-mail between you</p> <p>25 and Mr. Horn talking about some of the teaching</p>



<p style="text-align: right;">22</p> <p>1 statistics?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And this is dated April 27th, 2018?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And so -- there I go; I'm saying "okay"</p> <p>6 as my filler word.</p> <p>7 So is this an example of some of the ways</p> <p>8 in which he was contributing to your -- to the creation</p> <p>9 of the dossier, running averages and things like that?</p> <p>10 A. So this was before -- let me try to remember.</p> <p>11 I believe it was before the department meeting that took</p> <p>12 the vote on whether I should go up or not. So it was</p> <p>13 before the formal preparation of the tenure document,</p> <p>14 and I think this was Jimmy helped me with running</p> <p>15 statistics for the presentation that Sanjay was supposed</p> <p>16 to do for, I think, in front of the department.</p> <p>17 Q. Okay. So he wasn't helping with -- with the</p> <p>18 creation of the dossier, but he was helping with the</p> <p>19 presentation to the -- to the Budget Council that</p> <p>20 pre-dates the dossier assembly process?</p> <p>21 MR. SCHMIDT: Objection, form.</p> <p>22 A. No.</p> <p>23 Q. (BY MR. DOWER) No? Am I -- okay.</p> <p>24 A. I wouldn't -- I wouldn't say he was helping</p> <p>25 with the presentation. He was helping with collecting</p>	<p style="text-align: right;">24</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And that was for your undergraduate</p> <p>3 degrees, correct?</p> <p>4 A. Yes. I also got a Master's Degree in the same</p> <p>5 year.</p> <p>6 Q. Okay. So that's the master's in computer</p> <p>7 science and a BA in applied mathematics?</p> <p>8 A. Yes.</p> <p>9 Q. So if you came to the States in '98, so then,</p> <p>10 I guess, did you do high school in the United States?</p> <p>11 A. No.</p> <p>12 Q. No. Okay. Where did you, I guess, attend the</p> <p>13 primary education that precedes undergrad?</p> <p>14 A. I did most of it in Bulgaria, except for the</p> <p>15 last two years, which I did in Canada.</p> <p>16 Q. Okay. So when you -- when you went to</p> <p>17 undergrad at Harvard University, was that the first time</p> <p>18 that you lived in the United States?</p> <p>19 A. No.</p> <p>20 Q. Oh, no. Okay. When did you live in the</p> <p>21 United States?</p> <p>22 A. Oh, I'm sorry. Was your question about living</p> <p>23 or entering the United States?</p> <p>24 Q. I meant living -- living in the United States.</p> <p>25 A. Then, yes, 1998 is when I first came to live</p>
<p style="text-align: right;">23</p> <p>1 and analyzing information that I was to give Sanjay. I</p> <p>2 had discussions with Sanjay multiple times before the</p> <p>3 slides were prepared, which I helped prepare for</p> <p>4 Sanjay's presentation to the department.</p> <p>5 Q. Okay. So he was helping prepare information</p> <p>6 to equip Sanjay for Sanjay's presentation to the</p> <p>7 department?</p> <p>8 MR. SCHMIDT: Objection, form.</p> <p>9 A. I wouldn't say that. He was -- he was helping</p> <p>10 me with information that I felt I needed to relay to</p> <p>11 Sanjay, whether -- Sanjay ended up not using any of that</p> <p>12 information for the presentation and we had a little</p> <p>13 back and forth about what teaching average would be</p> <p>14 useful for that presentation and he ended up not using</p> <p>15 any of that information.</p> <p>16 Q. (BY MR. DOWER) All right. I think we can</p> <p>17 close this one for now.</p> <p>18 Let's go ahead and take a step back and</p> <p>19 just start with some really basic stuff, just sort of</p> <p>20 about your background. Where were you born?</p> <p>21 A. I was born in Sofia, Bulgaria.</p> <p>22 Q. And when did you come to the United States?</p> <p>23 A. I came to the United States in 1998.</p> <p>24 Q. So I guess you graduated from Harvard</p> <p>25 University in 2002; is that correct?</p>	<p style="text-align: right;">25</p> <p>1 in the United States; but prior to that, I had come to</p> <p>2 visit one time.</p> <p>3 Q. All right. So then after you got your</p> <p>4 undergraduate degrees from -- oh, well, I shouldn't say</p> <p>5 undergraduate. After you got those two degrees from</p> <p>6 Harvard, then you went to Cambridge University; is that</p> <p>7 correct?</p> <p>8 A. Yes.</p> <p>9 Q. And that's where you got the Master's in</p> <p>10 mathematics, from Cambridge?</p> <p>11 A. Yes.</p> <p>12 Q. And then you went to MIT for your Ph.D.,</p> <p>13 correct?</p> <p>14 A. Yes.</p> <p>15 Q. And did you get your Ph.D. in 2009?</p> <p>16 A. Yes.</p> <p>17 Q. And then you did -- you also did your</p> <p>18 postdoctoral associate at MIT; is that -- or you were a</p> <p>19 postdoctoral associate at MIT, correct?</p> <p>20 A. Yes.</p> <p>21 Q. And can you tell me, what is -- what exactly</p> <p>22 is a postdoctoral associate?</p> <p>23 A. It's an intermediate position between Ph.D.</p> <p>24 and the faculty position, which is now becoming more and</p> <p>25 more standard; but it is more prevalent in some fields</p>

<p>26</p> <p>1 than others. Some fields have -- like, physics or 2 biology have a very long time period where it's normal 3 to go one full doc, a second full doc, a third full doc, 4 and so on. Other fields, you can jump from Ph.D. 5 straight into a faculty position. Computer Science was 6 getting into more -- it was becoming more standard to do 7 post-docs. So it's basically an intermediary position 8 where you are -- depending on the full doc, where you 9 are either only research or a combination of research 10 and teaching as you prepare for a faculty position. 11 Q. And were you doing pure research, or were you 12 doing the teaching and research when you were a 13 postdoctoral associate? 14 A. I was doing pure research. 15 Q. And so then you became an assistant professor 16 at A&amp;M in 2011? 17 A. Yes. 18 Q. So how did you end up from the postdoctoral 19 associate at MIT to A&amp;M? 20 A. I submitted an application to the academic job 21 market, which have a standard deadline around December 22 of the prior academic year. I looked up ads for open 23 positions. I applied broadly in the U.S. and Europe. I 24 was invited to interview. I interviewed at several 25 universities. I received an offer from Texas A&amp;M, and I</p>	<p>28</p> <p>1 Q. Okay. And then you joined UT Austin in 2 January 2014, also as an assistant professor? 3 A. Yes. 4 Q. Okay. And you're still at UT Austin as an 5 assistant professor as of the date that we're taking 6 this deposition? 7 A. Yes. 8 Q. Okay. I'm going to switch gears here a little 9 bit and I want to talk briefly about your family and I 10 realize that is somewhat of a personal topic. And I'm 11 not trying to be overly invasive; but, of course, since 12 this is a pregnancy discrimination case, the nature of 13 some of these allegations sort of require me to ask some 14 questions about your family situation. And so I just 15 want to put that up front that I'm asking about family 16 stuff. 17 So, first of all, we already covered -- 18 so you're married to Mr. Jimmy Horn. When -- when did 19 you meet Mr. Horn? 20 A. I met him in September 2014 -- well, I met him 21 in person then. I met him through online dating. So 22 online we met. I think we first exchanged messages in 23 the late spring of 2014; and then we ended up meeting 24 for the first time, I think, around September. 25 Q. I will just share that I, too, have shared the</p>
<p>27</p> <p>1 accepted the offer. 2 Q. And why did you choose A&amp;M? Were they the 3 first one to give you an offer; or was there something 4 particularly special about them that attracted you, just 5 like why A&amp;M? 6 A. So at the time I had one -- I had also applied 7 for a second post doc because one never knows with the 8 academic job market, many people end up not having any 9 interviews or not any offers. I had -- this was my 10 only offer for a faculty position. I also had an offer 11 for a post doc and I was weighing the two and I 12 decided -- many people sometimes will -- well, not many. 13 Some people sometimes will choose to take a post doc if 14 they believe that they can, you know, then get an offer 15 for a place they like better. 16 I was weighing the two, and I ultimately 17 decided that there were things that I liked about Texas 18 A&amp;M. There was a sense of community that I had felt 19 there; and even though it was quite far from what I knew 20 and from home and from all my friends, but I decided 21 that the sense of community and support I had felt was 22 strong enough for me to accept the offer. 23 Q. So then you were at A&amp;M from 2011 to 20-- -- 24 well, I guess -- was it the end of 2013? 25 A. Correct.</p>	<p>29</p> <p>1 joys and not-so-much joys of online dating. Which app 2 are you using if you don't mind me asking? 3 A. At that time I believe we met on Ok-Cupid. I 4 had tried several different platforms. 5 Q. Yeah. Okay. I have too used Ok-Cupid, but I 6 should probably stop on sharing things like that. 7 Okay. Well, actually, this could turn 8 into a great ad since it obviously worked? 9 So you met through Ok-Cupid and there 10 was -- you got -- you started the dialogue in September 11 2014, and you said you actually met in person in 12 December of 2014? 13 MR. SCHMIDT: Objection, form. 14 A. We met in person -- no. We started a dialogue 15 in late spring of 2014 -- 16 Q. (BY MR. DOWER) Oh. 17 A. -- and we met in person around September -- 18 Q. Oh, okay. I apologize. 19 A. -- 2014. 20 Q. I apologize. I got that wrong. 21 And then you got married in January 2019; 22 is that correct? 23 A. Yes. 24 Q. Belated congratulations. And you have -- 25 A. Thank you.</p>

<p>30</p> <p>1 Q. -- three children together?</p> <p>2 A. Yes.</p> <p>3 Q. And so what is -- well, can you just name your</p> <p>4 kids for me?</p> <p>5 A. Our first one is a boy. His name is Julian.</p> <p>6 Our second one is a girl. Her name is Elitza. And our</p> <p>7 third one is a boy. His name is Anthony, and we call</p> <p>8 him "Tony."</p> <p>9 Q. Here's the real test: What is Julian's</p> <p>10 birthday -- or birth date, you know, with the year?</p> <p>11 A. March 10 of 2016.</p> <p>12 Q. And Elitza?</p> <p>13 A. "Elitza"?</p> <p>14 Q. "Elitza," yes. I apologize.</p> <p>15 A. June 13 of 2018.</p> <p>16 Q. June 13, one three?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Just making sure I heard you correctly.</p> <p>19 And then Tony?</p> <p>20 A. September 17 of 2019.</p> <p>21 Q. And I have to apologize in advance for this</p> <p>22 next question. I'm not trying to be invasive, but have</p> <p>23 you had any other pregnancies since you've applied to</p> <p>24 the job at UT other than those three?</p> <p>25 A. No.</p>	<p>32</p> <p>1 A. And maybe I just didn't look for them at the</p> <p>2 time because I was specifically looking for tango and</p> <p>3 salsa. I have gone country dancing in Austin a few</p> <p>4 times.</p> <p>5 Q. Where do you go if you don't mind me asking?</p> <p>6 A. For which of the dancing?</p> <p>7 Q. Oh, that's fair. Let's stick with country</p> <p>8 real quick.</p> <p>9 A. For country, I went a couple of times to The</p> <p>10 Broken Spoke.</p> <p>11 MR. SCHMIDT: Time to --</p> <p>12 MR. DOWER: I knew --</p> <p>13 (Simultaneous speakers.)</p> <p>14 Q. (BY MR. DOWER) I knew you were going to say</p> <p>15 that. Okay. While we're on the record, I won't ask --</p> <p>16 or tell you why; but we -- anyway, okay. So the Broken</p> <p>17 Spoke. Okay.</p> <p>18 So, I mean, you ended up marrying</p> <p>19 Mr. Horn. How did you -- or did you keep up the</p> <p>20 dialogue with him after -- I guess while you were at</p> <p>21 A&amp;M?</p> <p>22 A. Yes, let me -- no, wait. I met him online</p> <p>23 when I was already at UT Austin.</p> <p>24 Q. Oh, you met him after you came to UT Austin.</p> <p>25 Okay. Sorry. I got my chronology wrong. Okay.</p>
<p>31</p> <p>1 Q. Okay. I'm going to switch again a little bit</p> <p>2 and kind of go back to your career trajectory. Why did</p> <p>3 you decide to leave Texas A&amp;M and come to UT Austin?</p> <p>4 A. It was really the personal aspect. I was</p> <p>5 single when I was at Texas A&amp;M; and it is a relatively</p> <p>6 small town where the social life is essentially much</p> <p>7 more, you know, in the form of getting together with</p> <p>8 colleagues at the university that's mostly your friends.</p> <p>9 And it was a tight-knit community that I enjoyed, but I</p> <p>10 wasn't lucky finding a husband in that community. And I</p> <p>11 also really enjoyed -- outside of work, I enjoyed</p> <p>12 various hobbies, like dancing; and there wasn't much of</p> <p>13 dancing in College Station. There was very nice dancing</p> <p>14 in Austin I discovered.</p> <p>15 Q. What kind of dancing?</p> <p>16 A. I do -- I enjoy the most Argentine Tango and</p> <p>17 Salsa.</p> <p>18 Q. I imagine -- and I don't want to stereotype</p> <p>19 A&amp;M -- but I imagine they've got a pretty good, like,</p> <p>20 country dancing scene at A&amp;M; but maybe -- so maybe --</p> <p>21 or am I wrong? Or is that just not your interest?</p> <p>22 A. I am very broadly interested in dance and I</p> <p>23 have gone country dancing, but I don't recall</p> <p>24 discovering any country dance venues at A&amp;M.</p> <p>25 Q. Okay.</p>	<p>33</p> <p>1 Okay. Any other reasons why you decided</p> <p>2 to leave A&amp;M?</p> <p>3 A. So I had -- also, UT is, you know, higher end</p> <p>4 in the department that I am. And I was able to attract</p> <p>5 better students, and Ph.D. students are critical to my</p> <p>6 career. At A&amp;M I was having a hard time finding</p> <p>7 students that had enough theoretical background for my</p> <p>8 research. So they were really outstanding students, but</p> <p>9 they tended to be more in the applied areas. And I</p> <p>10 tried there. It just didn't work out with students</p> <p>11 there.</p> <p>12 Q. So how did --</p> <p>13 A. Let me say there was a bonus. I'm sorry.</p> <p>14 Q. Oh, no. Don't apologize. It's fine.</p> <p>15 How did you end up getting recruited, or</p> <p>16 how did you end up at UT Austin specifically?</p> <p>17 A. I was invited to apply to the ECE Department</p> <p>18 at UT Austin by Professor Constantine Caramanis.</p> <p>19 Q. And did Dr. Caramanis -- excuse me -- contact</p> <p>20 you out of the blue, or how did he reach out to you?</p> <p>21 A. He must have -- I believe he wrote me an</p> <p>22 e-mail. We had known each other, not -- not closely;</p> <p>23 but we had known each other while we were Ph.D. students</p> <p>24 at MIT. And when I went to Texas A&amp;M, I guess I</p> <p>25 remembered that he was somebody at UT Austin nearby. I</p>

<p>34</p> <p>1 invited him to give a talk at Texas A&amp;M, just out of 2 collegiality and sort of trying to build a local 3 community, a local research community. And that was 4 sometime after I joined A&amp;M; I don't remember the year. 5 And then at some point he wrote me an 6 e-mail and he said -- we had conversations about how, 7 you know, he found Austin very fun; and he enjoyed it. 8 And he probably saw in me that I had a desire to move to 9 Austin since I was visiting it quite often for dancing. 10 And at some point he e-mailed me sort of out of the blue 11 saying, "Oh, we have a position which I think you would 12 be a great candidate. Would you like to apply?" 13 Q. And so then you submitted your application 14 materials through -- how did you submit the application? 15 A. He -- I don't recall if I e-mailed him 16 documents or if I submitted them online somewhere at the 17 UT website. I don't recall. So basically I submitted 18 whatever the standard documents were. 19 Q. And did you go through interviews as part of 20 that process? 21 A. Yes. I went through the full standard 22 process, which was, first, they contacted -- after 23 submitting my documents, somebody from the UT hiring 24 committee e-mailed me to invite me for a Skype call, 25 which was, I guess, about a half-hour call for people on</p>	<p>36</p> <p>1 this is a plus for you since you can still go up at your 2 normal time that began -- started at Texas A&amp;M; but if 3 you need more time for whatever reason, it gives you 4 more flexibility." 5 Q. Okay. So was that -- was that indicated -- so 6 he's the Chair of the ECE Department at the time? 7 A. Yes. 8 Q. And so was -- was he indicating that the ECE 9 Department would be supportive of putting you up for 10 tenure at the five-year mark? 11 A. Yes. 12 (Exhibit 13 discussed.) 13 Q. (BY MR. DOWER) Okay. Let me show you a 14 document that I believe has been previously marked as 15 Exhibit 13. So you can -- there's an exhibit stamp on 16 this already. You can basically ignore that. We're 17 trying to avoid duplicate numbering. 18 Were you able to open Exhibit 13? 19 A. I just opened it. Let me just make sure to 20 save it in the right place. 21 Okay. I have it saved, and I have it 22 open. 23 Q. Is this the teaching statement you submitted 24 with the tenure dossier? 25 A. I believe it is. The reason I say I believe</p>
<p>35</p> <p>1 their short list. And after -- sometime after those 2 Skype calls, somebody contacted me to invite me for a 3 full-length interview, which was in person at UT for, I 4 think, two days in a row. 5 Q. And is that when you -- or I guess I should 6 ask it this way: When did you first meet Ahmed Tewfik? 7 A. I believe we met him first during my full 8 interview, in-person interview at UT Austin, which would 9 have been, I believe, around April of 2013. 10 Q. And I appreciate that one of the issues in 11 this case is about -- about how your time at A&amp;M would 12 be considered or not considered at -- at UT; and then as 13 part of that, that -- that Dr. Tewfik made some comments 14 to you about how your time at A&amp;M would be considered. 15 Do you remember having a conversation with him about how 16 your time at A&amp;M would be considered? 17 A. Yes. I don't recall the exact words of the 18 conversation. The gist of it was that my -- that I 19 would be able to go up at UT Austin on my normal tenure 20 time clock that began at Texas A&amp;M. And he specifically 21 told me -- in fact, I don't think I even asked then; but 22 he specifically told me that the standard offer, 23 five-year offer, meaning that one would be evaluated 24 after five years at UT. And he said, "We do that for 25 everyone whether or not you have prior experience, but</p>	<p>37</p> <p>1 it is, because I had many versions with one-word changes 2 here and there. Without reading and comparing word for 3 word, I cannot be one hundred percent sure; but, yes, I 4 have no reservations that it is. 5 Q. That is completely fair. Really, what I want 6 to do is just direct you to page 5 and Table 2 because 7 I want to go through your -- your time at UT and, you 8 know, when you were teaching, when you weren't teaching; 9 and this seemed like a really nice visual to just sort 10 of help speed up that conversation. So are you -- can 11 you see on page 5 of the PDF the Table 2, Course 12 Schedule by Semester? 13 A. Yes. 14 Q. Okay. And so I just kind of want to run 15 through briefly your time at UT and when you were 16 teaching. So this shows the Spring of 2014. That was 17 the first semester you were at UT Austin, correct? 18 A. Correct. 19 And may I just -- I apologize. May I 20 just request a break, maybe in the next ten minutes or 21 so? I feel I'm getting a little tired and losing focus. 22 So whenever you find it appropriate in the next ten 23 minutes or so. 24 Q. Perfect. We can definitely do that. 25 Okay. So Spring 2014 you were teaching a</p>

<p>38</p> <p>1 Game Theory course?</p> <p>2 A. Yes.</p> <p>3 Q. Is that a graduate course or an undergraduate</p> <p>4 course?</p> <p>5 A. It's a graduate course.</p> <p>6 Q. Is there -- is there any way to tell which is</p> <p>7 just by looking at it? Like, what -- does the "V"</p> <p>8 versus "C" signal something or --</p> <p>9 A. At some point I had asked that from UT because</p> <p>10 every university had its own numbering and I believe</p> <p>11 there is a way to tell from the numbers; but I forget</p> <p>12 the exact, you know, answer now. It has to do, I</p> <p>13 believe, with -- you know, it's 381 versus 360. So I</p> <p>14 believe the second digit is the higher -- when it's</p> <p>15 higher, it indicates a graduate course; and when it's a</p> <p>16 6, it indicates an upper level -- undergraduate.</p> <p>17 Basically the lower the number, the lower for the course</p> <p>18 in the -- yeah, in the year that it is.</p> <p>19 Q. I appreciate that.</p> <p>20 A. Yeah.</p> <p>21 Q. Perfect. Okay. So then in Fall 2014, you</p> <p>22 were teaching Algorithms?</p> <p>23 A. Yes.</p> <p>24 Q. And I take it from your testimony a second ago</p> <p>25 that that's an undergraduate class?</p>	<p>40</p> <p>1 teaching undergraduate Algorithms?</p> <p>2 A. Yes.</p> <p>3 Q. And then Spring 2017 you're teaching a</p> <p>4 graduate-level Advanced Algorithms?</p> <p>5 A. Yes.</p> <p>6 Q. And then Fall of 2017 you were teaching two</p> <p>7 classes of undergraduate Algorithms, correct?</p> <p>8 A. Yes.</p> <p>9 Q. And then Spring of 2017 [sic] you were not</p> <p>10 teaching that semester, correct?</p> <p>11 A. Yes.</p> <p>12 Q. That was when you were at the Simons Institute</p> <p>13 again; is that correct?</p> <p>14 A. Yes.</p> <p>15 Q. And then Fall of 2018, which goes outside this</p> <p>16 chart, but it's my understanding that you were on</p> <p>17 Modified Instructional Duty in Fall 2018, correct?</p> <p>18 A. Let me remember because there was a -- yes,</p> <p>19 Fall of 2018 I was -- let me -- excuse me. Excuse me</p> <p>20 for moment. I want to get the timing right in my head.</p> <p>21 Fall of 2018 was after my daughter, Elitza, was born.</p> <p>22 So, yes, that's when I was on Modified Instructional</p> <p>23 Duty for her birth. Yes.</p> <p>24 Q. And then it's my understanding that in Spring</p> <p>25 2019, you were teaching again?</p>
<p>39</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And so then in Spring 2015 you were</p> <p>3 teaching Advanced Algorithms?</p> <p>4 A. Yes.</p> <p>5 Q. And that would have been a graduate-level</p> <p>6 class, I take it?</p> <p>7 A. Yes.</p> <p>8 Q. And so Fall 2015 it says, "On teaching</p> <p>9 relief." So I take it -- am I correct in saying, then,</p> <p>10 that you were not teaching students at that time?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And that would have been when you were</p> <p>13 at the Simons Institute; is that correct?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And so then Spring 2016 you weren't</p> <p>16 teaching that semester; is that correct?</p> <p>17 A. Yes.</p> <p>18 Q. And that was when you were on Modified</p> <p>19 Instructional Duty?</p> <p>20 A. Yes.</p> <p>21 Q. I'm sorry. Was that a "yes"? I just couldn't</p> <p>22 hear.</p> <p>23 A. Yes.</p> <p>24 Q. Okay. Sorry.</p> <p>25 Okay. And so then Fall 2016 you're</p>	<p>41</p> <p>1 A. Yeah.</p> <p>2 Q. Okay. And then in Fall 2019 you were on sick</p> <p>3 leave/leave without pay; is that accurate?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And so you were not teaching in the</p> <p>6 Fall of 2019, correct?</p> <p>7 A. Yes.</p> <p>8 Q. And then Spring 2020 you were on modified</p> <p>9 instructional duty that -- in the spring?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. So you weren't teaching in Spring of</p> <p>12 2020, correct?</p> <p>13 A. Correct.</p> <p>14 Q. And then in Fall of 2020 this, I guess, the</p> <p>15 most -- well, actually, I guess it's not most recent</p> <p>16 because it's June now. So strike that.</p> <p>17 So Fall of 2020 you were teaching the</p> <p>18 undergraduate Algorithms class?</p> <p>19 A. Yes.</p> <p>20 Q. And then this semester that just ended, you</p> <p>21 were on sick leave/leave without pay; is that correct?</p> <p>22 A. Yes.</p> <p>23 Q. And so no teaching this semester?</p> <p>24 A. Yes.</p> <p>25 MR. DOWER: Okay. We can take that break</p>

<p style="text-align: right;">42</p> <p>1 now.</p> <p>2 THE REPORTER: We're going off the record</p> <p>3 at 10:16 a.m.</p> <p>4 (Off the record from 10:16 to 10:31 a.m.)</p> <p>5 THE REPORTER: We're going back on the</p> <p>6 record at 10:31 a.m.</p> <p>7 Q (BY MR. DOWER) Okay. Dr. Nikolova, this</p> <p>8 next sort of part of our conversation is -- is about</p> <p>9 sort of the various options that an assistant professor</p> <p>10 has if -- if they become pregnant and they're sort of</p> <p>11 weighing their options; and so that's sort of the lead-</p> <p>12 in to what we're going to be talking about next.</p> <p>13 So -- so the three policies I just</p> <p>14 uploaded are the Modified Instructional Duties policy,</p> <p>15 the Family Medical Leave policy, and the Parental Leave</p> <p>16 policy. Were you able to -- to download those three</p> <p>17 policies?</p> <p>18 A. Yes.</p> <p>19 Q. So let's start with the Family and Medical</p> <p>20 Leave policy, 5-4310.</p> <p>21 MR. NOTZON: Mr. Dower, could you</p> <p>22 identify if you've marked these as Exhibits?</p> <p>23 MR. DOWER: I mean, I intend them to be</p> <p>24 exhibits; but I don't know what order -- so when you</p> <p>25 upload three things at once, I don't know which order</p>	<p style="text-align: right;">44</p> <p>1 employee's child as one of the things that might make</p> <p>2 FML available. Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. And under Scope there's a requirement about</p> <p>5 how long you're -- you have to be employed by the State</p> <p>6 of Texas before you're eligible for the Family and</p> <p>7 Medical Leave Act. Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And so with that, I just very briefly</p> <p>10 want to reference the Parental Leave policy, which I</p> <p>11 believe will be marked as Exhibit 73.</p> <p>12 (Exhibit 73 marked.)</p> <p>13 Q (BY MR. DOWER) Do you have that one open in</p> <p>14 front of you?</p> <p>15 A. Yes.</p> <p>16 Q. And so do you see under Applicability that for</p> <p>17 the Parental Leave policy, it's eligible employees with</p> <p>18 less than 12 months of state service or less than 1,250</p> <p>19 hours of work; and it keeps going from there. Do you</p> <p>20 see that?</p> <p>21 A. Yes.</p> <p>22 Q. And so if you look at the FML policy, the</p> <p>23 Family Medical Leave policy we were just looking at, and</p> <p>24 you look at the scope of that one and you compare it to</p> <p>25 the scope of the Parental Leave, it looks like these are</p>
<p style="text-align: right;">43</p> <p>1 they're numbered.</p> <p>2 MR. NOTZON: Okay.</p> <p>3 MR. DOWER: So I guess if we took it in</p> <p>4 order of -- the order of uploading, we would be looking</p> <p>5 at -- I think Modified Instructional Duty would be -- I</p> <p>6 think that would be 72.</p> <p>7 THE REPORTER: Mr. Dower, if I may, it</p> <p>8 would make more sense if you mark them in the order that</p> <p>9 you're going to talk about them.</p> <p>10 MR. DOWER: Oh, okay. Well, I aim to</p> <p>11 make things easier. So if we're going to do it that</p> <p>12 way, then since I'm starting with the Family Medical</p> <p>13 Leave policy, we'll make that Exhibit 72.</p> <p>14 Thank you, Debbie.</p> <p>15 THE REPORTER: Thank you.</p> <p>16 (Exhibit 72 marked.)</p> <p>17 Q (BY MR. DOWER) Okay. So the -- so do you</p> <p>18 have that policy open, Dr. Nikolova?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. So one of the things that could qualify</p> <p>21 someone to take Family and Medical Leave would be birth</p> <p>22 or care of an employee's child; is that correct?</p> <p>23 A. Yes.</p> <p>24 Q. And I'm looking here, you know, under</p> <p>25 Qualified Purposes. It lists birth and care of the</p>	<p style="text-align: right;">45</p> <p>1 sort of mutually exclusive, that the Parental Leave is</p> <p>2 for people with less than the time; and the Family</p> <p>3 Medical Leave is for people that have more than a</p> <p>4 certain amount of time of state service. Do you agree</p> <p>5 with that?</p> <p>6 A. It looks that way. I need to carefully read</p> <p>7 every word, but it looks that way from superficial</p> <p>8 glancing at it.</p> <p>9 Q. And so do you understand that these policies,</p> <p>10 though, are to take off -- to take leave? In other</p> <p>11 words, if you're taking one of these two leaves for</p> <p>12 birth and care of a child, you're not working. Is that</p> <p>13 your understanding?</p> <p>14 A. Yes.</p> <p>15 (Exhibit 74 marked.)</p> <p>16 Q. (BY MR. DOWER) And so then switching to</p> <p>17 Exhibit 60- -- or, excuse me -- 74, which is the</p> <p>18 Modified Instructional Leave policy -- Modified --</p> <p>19 excuse me; I just butchered that -- the Modified</p> <p>20 Instructional Duties policy, do you have that in front</p> <p>21 of you?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. So when you're doing Modified</p> <p>24 Instructional Duties, you're -- well, let me just direct</p> <p>25 you to the policy statement, actually. So it says, "It</p>



<p style="text-align: right;">46</p> <p>1 is the policy of The University of Texas at Austin to  2 modify the classroom instructional responsibilities of  3 faculty members and allow for equivalent academic  4 service when certain personal circumstances prevent them  5 from being able to perform their classroom teaching  6 duties, and when such modifications are found to be in  7 the best interest of the University's instructional  8 programs." Did I read that correctly?  9 A. Yes.  10 Q. Okay. So -- so is it your understanding  11 then that when you're on Modified Instructional Duties,  12 it's -- you're not on leave; you're still, you know, an  13 active employee. It's just that the classroom  14 instructional responsibilities have been modified to  15 allow for some equivalent, but instead of the classroom  16 instructional responsibilities. Is that your  17 understanding as well?  18 A. Yes.  19 Q. Okay. And so when we scroll down to  20 Eligibility Requirements, which is Subsection D, it says  21 that, "Faculty members who may apply for modified  22 instructional responsibilities are those who are a  23 principal caregiver of a healthy preschool child (or  24 children), or who are required to care for or assist a  25 member or members of their immediately family, who</p>	<p style="text-align: right;">48</p> <p>1 the Office of the Executive Vice President and Provost  2 for final review?  3 A. Yes, I believe so.  4 Q. And so let me go ahead and upload another  5 exhibit.  6 MR. DOWER: I believe this is Exhibit 75.  7 (Exhibit 75 marked.)  8 A. I have it open. Let me save it.  9 Q. (BY MR. DOWER) Yeah, go ahead. It's four  10 pages, so go ahead and take a moment to look through it.  11 A. (Witness silently reading document.)  12 Q. And let me know when you're -- you're ready.  13 A. Okay. I looked through it.  14 Q. Okay. So the first page is -- or the first  15 two pages are dated October 8th of 2015; is that  16 correct?  17 A. Yes.  18 Q. And this is your memorandum for modified duty  19 during Spring of 2016, correct?  20 A. Yes.  21 Q. Okay. And so this says that you're expecting  22 a baby on March 17th, 2016 and that you'd like to have  23 Modified Instructional Duty in the Spring 2016 semester,  24 correct?  25 A. Yes.</p>
<p style="text-align: right;">47</p> <p>1 although not ill or disabled, needs the help and  2 attention of the faculty member." Did I read that  3 correctly?  4 A. Yes.  5 Q. Okay. So -- so effectively then, this policy  6 allows an employee to reduce their teaching  7 responsibilities and replace it with some equivalent so  8 that they can -- they're able to care for a preschool-  9 aged child or maybe someone who needs the help who's a  10 family member. Is that a fair summary?  11 MR. SCHMIDT: Objection, form.  12 A. Yes.  13 Q. (BY MR. DOWER) And so the process is that the  14 faculty member submits a written request. That sort of  15 initializes the process, correct?  16 A. Yes.  17 Q. And then the request should include a  18 statement explaining the need and also a proposal  19 describing the work to be done in place of their normal  20 classroom responsibilities, correct?  21 A. Yes.  22 Q. And then that goes to the Chair or the Dean  23 who then reviews it; is that correct?  24 A. Yes.  25 Q. And then it goes from the Chair or the Dean to</p>	<p style="text-align: right;">49</p> <p>1 Q. And so then you proposed, instead of teaching  2 a class that semester, you would be focusing on  3 enhancing course materials for your Game Theory class  4 and that would be the substitution, so to speak?  5 A. Yes.  6 Q. Okay. So when you were -- well, I guess just  7 to start with, what made you decide to submit this  8 application for Modified Instructional Duty?  9 A. I understood that this was for -- the standard  10 process for when one is expecting a child. I asked my  11 colleagues around; and they said, yeah, that's what I  12 should do.  13 Q. And so were you anticipating that, with a new  14 baby in March, that it would be good to have the  15 flexibility not to teach that semester; or was it -- did  16 you just do it because of --  17 A. Yes.  18 Q. Okay. And then, from what you said, your  19 colleagues indicated that this was pretty normal -- a  20 pretty normal request?  21 A. Yes.  22 Q. Okay. Do you remember who you talked to  23 specifically who mentioned that?  24 A. I don't remember. I believe at the start of  25 the process Carol Bearden, who was the Executive</p>



<p>50</p> <p>1 Assistant to Professor Tewfik, sent me a sample of a 2 memo of modified duty written by another faculty member; 3 and she said, "Here is what we expect, and write 4 something like that." So that's what I remember. 5 Q. And so then -- so do you remember to whom you 6 submitted this? 7 A. I believe I submitted the form to Carol 8 Bearden, and I probably CC'd Professor Tewfik. 9 Q. And so then the next thing in exhibit -- or 10 the next exhibit, 75, is the -- Dr. Tewfik's memorandum 11 to Jerry Speitel; is that correct? 12 A. Yes. 13 Q. And so the first paragraph of this is sort of 14 a summary of your request. Is that a fair statement? 15 A. Yes. 16 Q. And then he goes on to say, "Evdokia normally 17 teaches two courses per academic year plus senior 18 design." Did I read that accurately? 19 A. Yes. 20 Q. And was that -- was that an accurate 21 statement? 22 A. Yes. 23 Q. And then he goes on to say that he had 24 "approved an unbalanced teaching load this academic year 25 for Evdokia to allow her to participate in most of the</p>	<p>52</p> <p>1 specifically, to promote collaboration of researchers in 2 this field and to promote visibility of such research to 3 the public. 4 Q. And so what were you doing in the Simons 5 Institute while you were there in the Fall of 2015? 6 A. I was a visiting researcher, along with maybe 7 about -- I would say about 40 or so professors from 8 universities across the United States and across the 9 world. 10 Q. So then just returning to Exhibit 75, 11 Dr. Tewfik says that he supports your request and asks 12 "that you approve it." And it's addressed to Jerry 13 Speitel. Is that accurate? 14 A. Yes. 15 Q. And then -- and then the next document is a 16 memorandum from Janet -- no, from Jerry Speitel to Janet 17 Dukerich, indicating that the Cockrell School supports 18 the request? 19 A. Yes. 20 Q. Okay. And sorry, Dr. Nikolova. Some of this 21 is just for the record, and we can just keep it moving. 22 Do you remember whether this was approved? 23 A. Yes, my MID was approved. 24 Q. In -- in Spring 2016, were you supervising 25 senior design, or no?</p>
<p>51</p> <p>1 activities of the UC Berkeley Mathematic Sciences 2 Research Institute during the Fall of 2015. As a 3 result, she will not be teaching at all this academic 4 year." Did I read that correctly? 5 A. Yes. 6 Q. And is that -- is that -- is what he said 7 accurate? 8 A. Yes. 9 Q. So the reference to UC Berkeley, was that -- I 10 guess this was when you were in the Simons Institute 11 that we were mentioning earlier? 12 A. Yes. 13 Q. Okay. So that's what this is referencing, the 14 stuff you were doing at the Simons Institute? 15 A. Yes. And I apologize. I'm now seeing that 16 it's not completely accurate because it says UC Berkeley 17 Mathematical Sciences Research Institute; but it's -- 18 the name -- the name of the institute is a little 19 different. But other than that, yeah. 20 Q. Okay. Why don't -- really quick, why don't 21 you tell me -- so what is the Simons Institute? 22 A. It's -- so I believe the name is the Simons 23 Institute for the Theory of Computation. It's an 24 institute that was formed to promote research in 25 theoretical computer science and related fields,</p>	<p>53</p> <p>1 A. I don't recall. 2 Q. Let me -- let me ask another question before 3 we move on. Is there a reason that you decided to go on 4 Modified Instructional Duty instead of taking leave? 5 A. Well, for one, it was the standard process, as 6 my colleagues had told me. My understanding was that 7 under MID, I would continue receiving salary. I would 8 be paid, whereas, the other forms of leave would be 9 unpaid; and the other forms were limited to 12 weeks, 10 which it doesn't -- I just feel like it doesn't work 11 well with an academic schedule and the responsibilities 12 of a professor teaching a course. I just didn't imagine 13 how it would fit because if I'd taken the other form of 14 leave, I would have started teaching a course, let's 15 say, in Spring; and then someone else would have to take 16 over in the middle of the semester. So I don't know if 17 I had requested one how it would have worked. My 18 understanding was that the MID was for professors 19 specifically to accommodate for the academic semester- 20 by-semester schedule. 21 MR. DOWER: I just uploaded an 22 Exhibit 76. 23 (Exhibit 76 marked.) 24 Q. (BY MR. DOWER) Let me know when you've had a 25 chance to download that and take a look at that.</p>

<p>54</p> <p>1 A. I just opened it. Let me save it.  2 Okay. I'm ready.  3 Q. Okay. Well, you've probably figured out where  4 I'm going with this. This is the Modified Instructional  5 Duty -- well, the first two pages is the Modified  6 Instructional Duty request for Fall 2018, correct?  7 A. Correct.  8 Q. Okay. So in this one -- in this request,  9 first of all, this is dated April 13th, 2018, correct?  10 A. Correct.  11 Q. And so in this request you say that you're  12 anticipating -- or expecting a baby on June 30th, 2018;  13 and so you want Modified Instructional Duty for the Fall  14 2018 semester. Is that accurate?  15 A. Yes.  16 Q. And so, instead of teaching, you would be  17 focusing on enhancing your -- I think it's -- this would  18 be the graduate-level Game Theory class?  19 A. Yes.  20 Q. And then if we go down to page 3 of  21 Exhibit 76, we have another memorandum from Dr. Tewfik  22 to Jerry Speitel. Is that a -- is that what you see?  23 A. Yeah.  24 Q. And so it's kind of similar to before. We  25 have a paragraph that summarizes your -- your request;</p>	<p>56</p> <p>1 that?  2 A. Yes.  3 Q. And it's signed and dated, correct?  4 A. Yes.  5 Q. Okay. And then, when we keep going, there's  6 an e-mail exchange between Dorothy Harris and Sonya  7 Shaffer in which Dorothy Harris asks for additional  8 information. Do you see that e-mail?  9 A. Yes.  10 Q. And so it looks like Ms. -- or maybe doctor; I  11 don't actually know her title -- Dorothy Harris just  12 wanted clarifying information about how many -- like,  13 how many you'll teach for the academic year in which  14 you're assigned Modified Instructional Duty; is that  15 correct?  16 A. Yes.  17 Q. And then it clarifies -- or I guess Sonya  18 Shaffer clarifies that you'll be teaching one course in  19 addition to supervising a senior design course; is that  20 correct?  21 A. Yes.  22 Q. And so -- but this is for the cumulative  23 academic year, right? Is that your understanding?  24 A. Yes.  25 Q. Is supervising a senior design course, is that</p>
<p>55</p> <p>1 and then the second paragraph says, "The normal teaching  2 load for well-funded research-active faculty members in  3 the department is two courses per academic year, in  4 addition to supervision of a senior design team." First  5 of all, did I read that correctly?  6 A. Yes.  7 Q. And is that -- is it your understanding that  8 that's accurate, that statement?  9 A. Yes.  10 Q. Okay. And then he goes on to say, "One of the  11 courses must be an undergraduate course," and is that  12 your understanding as well?  13 A. Yes.  14 Q. Okay. And then he goes on; and he says, "I  15 support Evdokia's request and recommend that you approve  16 it," correct?  17 A. Yes.  18 Q. And so the next page is the next step in the  19 process, where it's Jerry Speitel to Janet Dukerich; and  20 he indicates that the Cockrell School supports this  21 request, correct?  22 A. Yes.  23 Q. And then at the bottom of that page, page 4 of  24 the PDF, it says that it's approved by Carmen Shockley,  25 Assistant Vice Provost for Faculty Affairs. Do you see</p>	<p>57</p> <p>1 a semester-by-semester commitment; or is that a  2 commitment that goes for the whole year, typically?  3 A. It's typically one of the senior design team  4 in two consecutive semesters, which may be both in the  5 same academic year; or they may be across two academic  6 years, depending on when they start.  7 Q. And then on the last page of this document,  8 76, this is the -- this is the -- this is a memorandum  9 addressed to you from Jerry Speitel, letting you know  10 that the request for Modified Instructional Duties for  11 Fall 2018 had been approved?  12 A. Yes.  13 Q. And then there's a little bit of a discussion  14 here about the use of available sick leave. Do you  15 recall having any discussions with -- with, I guess,  16 Jerry Speitel about whether you would be doing sick  17 leave in conjunction with -- with your modified  18 instructional leave?  19 A. Not at that time.  20 Q. So you had discussions, but they probably  21 occurred later -- or they would have occurred later?  22 A. Yes.  23 Q. Okay. I've just uploaded Exhibit 77.  24 (Exhibit 77 marked.)  25 A. I have it open. I'm going to save it.</p>

<p>58</p> <p>1 Q (BY MR. DOWER) Yeah, take your time.</p> <p>2 A. Okay. I'm done.</p> <p>3 Q. So these are documents related to your request</p> <p>4 for Modified Instructional Duty in the Spring 2020</p> <p>5 semester, correct?</p> <p>6 A. Yes.</p> <p>7 Q. And so in -- in your memorandum, you indicate</p> <p>8 you're expecting a baby on September 17th, 2019; and</p> <p>9 you're requesting to have Modified Instructional Duty in</p> <p>10 the Spring 2020 semester, the following semester,</p> <p>11 correct?</p> <p>12 A. Yes.</p> <p>13 Q. And so instead of teaching classes in Spring</p> <p>14 2020, you were proposing that you focus on developing</p> <p>15 course material for a new graduate course; is that</p> <p>16 correct?</p> <p>17 A. Yes.</p> <p>18 Q. This was -- went through the same process that</p> <p>19 we've been describing, where Dr. Tewfik is supportive;</p> <p>20 the Cockrell School supports the request; and then it's</p> <p>21 approved?</p> <p>22 A. Yes.</p> <p>23 Q. And for -- for Spring 2020, did you end up</p> <p>24 developing the course material for a new graduate</p> <p>25 course?</p>	<p>60</p> <p>1 A. No. The memo speaks of a new graduate class,</p> <p>2 and I have not -- I have not taught such graduate class</p> <p>3 since the memo was written; and so in such sense, it has</p> <p>4 not yet been unveiled.</p> <p>5 Q. I'm going to upload another document. This</p> <p>6 one is an exhibit that's previously been used. So it's</p> <p>7 already been marked as Exhibit 52.</p> <p>8 (Exhibit 52 discussed.)</p> <p>9 A. Okay. I have it open.</p> <p>10 Okay. I have it saved.</p> <p>11 Q (BY MR. DOWER) So this is the University's</p> <p>12 Extension of the Tenure Track Probationary Period</p> <p>13 policy; is that correct?</p> <p>14 A. Yes.</p> <p>15 Q. And so this is to extend the time in which a</p> <p>16 faculty member -- I guess an assistant professor has</p> <p>17 before they hit their up-or-out year. Is that your</p> <p>18 understanding?</p> <p>19 A. Can you please repeat the question?</p> <p>20 Q. Sure. So this policy that -- you're extending</p> <p>21 your probationary period when you invoke this policy,</p> <p>22 correct?</p> <p>23 A. Yes.</p> <p>24 Q. And so the probationary period is the time</p> <p>25 that an assistant professor has before they hit their</p>
<p>59</p> <p>1 A. Yes -- I mean, not full -- not fully for the</p> <p>2 entire course; but I worked on developing materials, as</p> <p>3 stated.</p> <p>4 Q. And so at the end of that semester, was</p> <p>5 that -- what happened with the work that you generated?</p> <p>6 A. It's revising various files in my computer.</p> <p>7 Q. I guess what I'm trying to ask is, you know,</p> <p>8 is -- have there been any steps since Spring 2020 to</p> <p>9 actually unveil a new graduate course?</p> <p>10 A. This is ongoing work, and it has been ongoing.</p> <p>11 Part of it was done then, and it has remained. In the</p> <p>12 graduate course, we want to always incorporate some of</p> <p>13 our research; and the research has been ongoing. And so</p> <p>14 whenever I teach a next such graduate course, I would be</p> <p>15 incorporating everything from that semester and also</p> <p>16 subsequent semesters.</p> <p>17 Q. Okay. So you're incorporating it into some of</p> <p>18 your instruction in some existing classes?</p> <p>19 A. Yes. For this particular memo, yeah.</p> <p>20 Q. I'm not -- I'm just trying to make sure I</p> <p>21 understand your testimony. And so at this point</p> <p>22 there's -- a new graduate course has not been unveiled,</p> <p>23 but you incorporated some of the work you did into</p> <p>24 existing courses. Is that a fair statement? Is that</p> <p>25 accurate?</p>	<p>61</p> <p>1 up-or-out year. Is that your understanding?</p> <p>2 A. I'm sorry. Say it one more time.</p> <p>3 Q. Sure. So this policy extends the deadline by</p> <p>4 which an assistant professor has before they hit the</p> <p>5 year in which they will either receive tenure or be</p> <p>6 given a terminal appointment?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And so this is a different policy than</p> <p>9 the Modified Instructional Duty policy, correct?</p> <p>10 A. Yes.</p> <p>11 Q. And so, theoretically, someone could be on</p> <p>12 Modified Instructional Duty but choose not to extend the</p> <p>13 probationary period, true?</p> <p>14 A. Yes.</p> <p>15 Q. But, you know, you could -- by the same note,</p> <p>16 you could, if you're on Modified Instructional Duty,</p> <p>17 also seek to extend your probationary period?</p> <p>18 A. Yeah.</p> <p>19 Q. Do you have an understanding of what the</p> <p>20 purpose of this policy is?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And what is that understanding?</p> <p>23 A. My understanding is that when a faculty</p> <p>24 member, male or female, has a new child or an adopted</p> <p>25 child, that takes a significant amount of time and</p>

<p>62</p> <p>1 effort; and to accommodate for having a family, for</p> <p>2 having a child, the faculty member can be given an</p> <p>3 additional year to complete a requirement -- the</p> <p>4 expectation for -- to make tenure.</p> <p>5 Q. And so the year in which they may not be as</p> <p>6 productive because they're focused on the new child</p> <p>7 won't count towards that finite period of time in which</p> <p>8 they have to get either tenure or dismissed?</p> <p>9 A. Yes.</p> <p>10 Q. I'm now uploading what, if I'm keeping track</p> <p>11 correctly, should be Exhibit 78.</p> <p>12 (Exhibit 78 marked.)</p> <p>13 Q. (BY MR. DOWER) Let me know when you've got</p> <p>14 that saved and have had a chance to go through it.</p> <p>15 A. It's downloading.</p> <p>16 Q. I'm not trying to rush you.</p> <p>17 A. Actually, if I may also request another break</p> <p>18 in the next ten minutes or so, whenever -- whenever it's</p> <p>19 a good time for you.</p> <p>20 Q. Perfect. And I appreciate these, like --</p> <p>21 these, like, "in the next ten minutes," because that</p> <p>22 gives me a little bit of flexibility. So I appreciate</p> <p>23 that very much.</p> <p>24 A. Okay. I have it open. Let me save it.</p> <p>25 Okay. I have it saved.</p>	<p>64</p> <p>1 A. Yes.</p> <p>2 Q. But then in the third paragraph it says, "In</p> <p>3 addition, attached is the approval from the Provost's</p> <p>4 Office for your request for a one-year extension to your</p> <p>5 probationary period." Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. And so this is one of those examples of</p> <p>8 where Modified Instructional Duty doesn't necessarily</p> <p>9 have to be linked to a probationary period extension,</p> <p>10 but it can be and in this case is. Is that a fair</p> <p>11 statement?</p> <p>12 A. Yeah -- yes.</p> <p>13 Q. And so then the next page is a letter</p> <p>14 addressed to Jerry Speitel from Janet Dukerich. Do you</p> <p>15 see that?</p> <p>16 A. Yes.</p> <p>17 Q. And this goes through, you know, when you</p> <p>18 joined the faculty and has a little chart of the</p> <p>19 probationary years to basically show what would happen</p> <p>20 if you took the -- you know, the extension year, the</p> <p>21 probationary year in '15-'16. Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. And it also says that the approved extension</p> <p>24 to the probation period, that it may be rescinded at</p> <p>25 Professor Nikolova's discretion. Do you see that?</p>
<p>63</p> <p>1 (Reporter coughed.)</p> <p>2 MR. DOWER: Bless you, Debbie.</p> <p>3 THE REPORTER: Thank you.</p> <p>4 Q. (BY MR. DOWER) Sorry. Are you ready for me</p> <p>5 or --</p> <p>6 A. I'm ready, yeah.</p> <p>7 Q. Oh, I'm sorry. I think we were both waiting</p> <p>8 for the other person. I apologize.</p> <p>9 Okay. Well, so this -- the first page of</p> <p>10 this document is -- is to let -- well, first of all,</p> <p>11 it's addressed to you, correct?</p> <p>12 A. Yes.</p> <p>13 Q. And this is -- this is dated November 20th,</p> <p>14 2015; and it's -- it's the Approval of Probationary</p> <p>15 Period Extension, correct?</p> <p>16 A. Yes.</p> <p>17 Q. So -- so it starts out in the first paragraph</p> <p>18 and it says that it was to let you know that your</p> <p>19 request for Modified Instructional Duties for Spring</p> <p>20 2016 has been approved by Senior Vice Provost Janet</p> <p>21 Dukerich, correct?</p> <p>22 A. Yes.</p> <p>23 Q. And, as we just discussed, Modified</p> <p>24 Instructional Duty is a separate thing from the</p> <p>25 probationary period extension, right?</p>	<p>65</p> <p>1 A. Yes.</p> <p>2 Q. And that a request to rescind an approved</p> <p>3 probationary period extension should be submitted in</p> <p>4 writing to the department chair no later than February 1</p> <p>5 prior to the fall promotion review, correct?</p> <p>6 A. Yes.</p> <p>7 Q. So, basically, the faculty member can get the</p> <p>8 extension; but then they can rescind it. They can take</p> <p>9 it back later, up until some cutoff point, which is</p> <p>10 February 1st, prior to the Fall promotion review,</p> <p>11 correct?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Do you -- so the version of this full</p> <p>14 disclosure that we're looking at right here doesn't have</p> <p>15 your signature. Do you remember whether you got this</p> <p>16 letter?</p> <p>17 A. I don't remember. I believe that in my e-mail</p> <p>18 recently I saw it, but I'm not completely sure.</p> <p>19 Q. And I'm not trying to trick you or anything.</p> <p>20 There may be a version with your signature. I'm just</p> <p>21 trying to be transparent, and I suspect there's probably</p> <p>22 a version with your signature somewhere out there in the</p> <p>23 ether. I just didn't find it last night when I was</p> <p>24 preparing, but -- so right now you think that you</p> <p>25 probably got this?</p>

<p>66</p> <p>1 A. I may have gotten it. I don't remember.</p> <p>2 Q. Fair enough. But suffice it to say that</p> <p>3 it's -- the letter from -- or the memorandum that's</p> <p>4 addressed to you from Jerry Speitel indicates that the</p> <p>5 approval is attached; and then it has this thing that</p> <p>6 says, "As noted in the memo, please read and then sign</p> <p>7 to indicate your understanding of the extension." And</p> <p>8 just to be clear, I'm looking on the first page of this</p> <p>9 exhibit in the third paragraph.</p> <p>10 A. The first page, third paragraph.</p> <p>11 Q. Second sentence.</p> <p>12 A. Oh, yeah. "...please read and then sign</p> <p>13 to..." Yeah, I see where it says that, yeah.</p> <p>14 Q. Can you tell me what -- you know, going back</p> <p>15 in time mentally to what you were thinking in, I guess,</p> <p>16 around November 2015, why did you decide to request the</p> <p>17 probationary period extension?</p> <p>18 A. I remember it very well. I had a conversation</p> <p>19 with my Chair, Professor Tewfik, in Fall of 2015. It</p> <p>20 was a phone conversation or a Skype conversation, and I</p> <p>21 told him that I'm pregnant.</p> <p>22 And he said, "Congratulations, and this</p> <p>23 is what, you know, you need to do as a process. It's</p> <p>24 the Modified Instructional Duty. You can get the form</p> <p>25 from Carol, a sample form. And then there is a one-year</p>	<p>68</p> <p>1 you won't be able to accept it later," something like</p> <p>2 that, whereas, "If you accept it now, you can rescind it</p> <p>3 later," or something like that.</p> <p>4 Q. So effectively: If you don't take the</p> <p>5 opportunity to take the extension now, the window of</p> <p>6 opportunity will close; but if you do request the</p> <p>7 extension now, you can always rescind it later. No</p> <p>8 harm, no foul." Is that fair?</p> <p>9 A. Something like -- something like that.</p> <p>10 Q. He probably didn't say, "No harm, no foul."</p> <p>11 That's probably me, but something to that effect?</p> <p>12 A. That's right, yeah. There was something to</p> <p>13 the effect that it will not hurt me, but it can only</p> <p>14 help me if I accept it.</p> <p>15 Q. And so -- and, also, you wouldn't be teaching</p> <p>16 in the March -- in Spring 2016, right, as a result of</p> <p>17 the Modified Instructional Duties?</p> <p>18 A. Correct.</p> <p>19 Q. So if one of the things that -- you know, that</p> <p>20 UT is looking at for tenure is teaching, that removes</p> <p>21 some information that they might want to have and that</p> <p>22 you might want to have as part of your portfolio?</p> <p>23 A. You could say that, yes.</p> <p>24 Q. Okay.</p> <p>25 MR. DOWER: Well, you requested a break;</p>
<p>67</p> <p>1 extension, and I strongly -- I strongly advise you to</p> <p>2 accept the extension."</p> <p>3 And, actually, I thought all this time</p> <p>4 that it was a voice conversation; but I just, upon</p> <p>5 reviewing my e-mail last week, I saw an e-mail from him,</p> <p>6 which said, "Oh, I went back and checked and, you know,</p> <p>7 here is how the extension works; and I strongly advise</p> <p>8 you to accept the extension."</p> <p>9 And I said, "Okay." I remember in the</p> <p>10 phone conversation it wasn't clear to me why he was</p> <p>11 urging me to accept it because I said, "Well, why should</p> <p>12 I accept an extra year when I don't expect to wait until</p> <p>13 my up-or-out year at UT, anyway?" I was expecting to go</p> <p>14 to be considered for tenure on my normal -- around my</p> <p>15 normal time clock that began at A&amp;M.</p> <p>16 And he sort of gave me a counterargument</p> <p>17 of, "No, no, no. You should accept it."</p> <p>18 And I said, "Okay." He knows better, so</p> <p>19 I will just accept it.</p> <p>20 Q. Do you remember what the substance of his</p> <p>21 counterargument was?</p> <p>22 A. It was something along the line that there is</p> <p>23 a limited time period by which I can accept it. He said</p> <p>24 something like, "Oh, well, you can only accept it now;</p> <p>25 but if you decide later" -- "if you don't accept it now,</p>	<p>69</p> <p>1 and I want to oblige you. So let's take a break now.</p> <p>2 THE REPORTER: We're going off the record</p> <p>3 at 11:22 a.m.</p> <p>4 (Off the record from 11:22 to 11:32 a.m.)</p> <p>5 THE REPORTER: We're going back on the</p> <p>6 record at 11:32 a.m.</p> <p>7 (Exhibit 79 marked.)</p> <p>8 Q (BY MR. DOWER) Dr. Nikolova, I'm going to</p> <p>9 direct your attention to what I believe has been marked</p> <p>10 as Exhibit 79; and this is a letter from Carmen Shockley</p> <p>11 about a request for a one-year probationary period</p> <p>12 extension, dated September 20th, 2019, correct?</p> <p>13 A. Yes.</p> <p>14 Q. And I must confess that I don't have all of</p> <p>15 the various documents that go with this ready to go, but</p> <p>16 let me ask you this: Did you apply for a probationary</p> <p>17 extension around September of 2019?</p> <p>18 A. Yes.</p> <p>19 Q. And if we refer back -- or I'm going to refer</p> <p>20 back in my notes. This would have been when you were on</p> <p>21 sick leave/leave without pay in the Fall of 2019?</p> <p>22 A. Yes.</p> <p>23 Q. And so you requested that the 2019 to '20</p> <p>24 academic year be a -- not count towards the probationary</p> <p>25 period; is that correct?</p>

<p style="text-align: right;">70</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And was this -- was this probationary</p> <p>3 extension granted?</p> <p>4 A. Yes.</p> <p>5 Q. And why did you decide to seek a probationary</p> <p>6 extension in the Fall of 2019?</p> <p>7 A. Well, this was after I received my tenure</p> <p>8 decision of do not promote in February of 2019 in which</p> <p>9 I also -- in which, or shortly after, I was informed</p> <p>10 that I'm -- the reason for not getting promoted and the</p> <p>11 fact that they were urging me to wait for two more years</p> <p>12 in order to fulfill additional requirements that the</p> <p>13 Dean outlined in her assessment letter for my tenure</p> <p>14 review, such as, extra funding and improving my teaching</p> <p>15 scores.</p> <p>16 And around that time -- I don't remember</p> <p>17 if it was after I was not notified of the tenure</p> <p>18 decision -- I learned that I'm pregnant with my third</p> <p>19 child; and I felt that with now three very small babies,</p> <p>20 a brand-new newborn and two other small babies -- small</p> <p>21 kids, it would be really hard to satisfy these extra</p> <p>22 requirements in that upcoming year, which is why I</p> <p>23 applied for an extra year.</p> <p>24 Q. So let me -- let me just make sure I</p> <p>25 understand. So you felt like with the third child, you</p>	<p style="text-align: right;">72</p> <p>1 don't have to start at the bottom and work our way up.</p> <p>2 It's actually in chronological order for once.</p> <p>3 So the first -- the first page is an</p> <p>4 e-mail from your gmail account to Karen Little; is that</p> <p>5 correct?</p> <p>6 A. Yes.</p> <p>7 Q. And this was in April of 2018, correct?</p> <p>8 A. Yes.</p> <p>9 Q. Who is Karen Little?</p> <p>10 A. She is an administrative assistant in the</p> <p>11 department for one part of the department -- actually,</p> <p>12 it's not a part of the department. It's a center called</p> <p>13 the WNCG, Wireless Networking and Communications Group.</p> <p>14 It's a center of about 15, 20 faculty, most from the ECE</p> <p>15 Department, but a couple from other departments and --</p> <p>16 Q. I anticipate --</p> <p>17 A. -- they have their own setup.</p> <p>18 Q. I'm sorry. I was just going to say, for</p> <p>19 Debbie's sake, could you repeat the letters again?</p> <p>20 Like, N-C-E, is that what you said?</p> <p>21 A. The abbreviation is WNCG, which stands for</p> <p>22 Wireless Networking and Communications Group.</p> <p>23 Q. Thank you. Sorry. I just didn't want Debbie</p> <p>24 to have to listen to that clip over and over again to</p> <p>25 make sure she got it.</p>
<p style="text-align: right;">71</p> <p>1 know, and with everything going on in your family</p> <p>2 situation that it would be difficult to make that a</p> <p>3 highly productive year; and you wanted to make sure that</p> <p>4 you improved the metrics that the Dean's letter, after</p> <p>5 the tenure decision, had flagged?</p> <p>6 MR. SCHMIDT: Objection, form.</p> <p>7 A. Yes.</p> <p>8 Q. (BY MR. DOWER) Okay. And, I mean, if there's</p> <p>9 anything that you disagree with about what I said,</p> <p>10 please let me know. I'm not -- I'm not trying to put</p> <p>11 words in your mouth. I'm just making sure that I</p> <p>12 understand your testimony. So, I mean, is that --</p> <p>13 A. Yes.</p> <p>14 Q. Okay. I'm going to change subjects a little</p> <p>15 bit. I'm going to bring up another exhibit.</p> <p>16 Here we go. Okay. Sorry. That took a</p> <p>17 second. I had to cross-reference something. So, I just</p> <p>18 uploaded Exhibit 80.</p> <p>19 (Exhibit 80 marked.)</p> <p>20 A. I'm downloading.</p> <p>21 Q. (BY MR. DOWER) Take your time.</p> <p>22 A. Okay. I have it open. Let me save.</p> <p>23 Okay. I have it open.</p> <p>24 Q. Okay. So I'll represent to you that I -- I</p> <p>25 put these in chronological order so we -- for once, we</p>	<p style="text-align: right;">73</p> <p>1 Okay. And so in this e-mail you</p> <p>2 indicated that you wanted to hire your fiance as a</p> <p>3 part-time research scientist in your group, correct?</p> <p>4 A. Yes.</p> <p>5 Q. And he'd been assisting you for over a year</p> <p>6 now with various research projects; and you were even</p> <p>7 going to submit some joint publications, correct?</p> <p>8 A. Yes.</p> <p>9 Q. And so since he was -- so this -- you know,</p> <p>10 this says that since he'd been committing close to 20</p> <p>11 hours a week of unpaid research work for you, you were</p> <p>12 wanting to actually hire him as a part-time research</p> <p>13 scientist, correct?</p> <p>14 A. Yes.</p> <p>15 Q. And so you flagged this in the second</p> <p>16 paragraph. You're saying, "I'm assuming that" there's</p> <p>17 some -- you'd have to declare some sort of conflict of</p> <p>18 interest; and so you were -- you were asking for advice</p> <p>19 on whether it's feasible and what are the conditions and</p> <p>20 a proposal of a salary of something like a thousand</p> <p>21 dollars a month. Is that -- is that a fair synopsis?</p> <p>22 A. Yes.</p> <p>23 Q. And so when you sent this e-mail, you didn't</p> <p>24 have an understanding one way or the other about</p> <p>25 whether, you know, there would be an issue with you</p>



<p>74</p> <p>1 making this proposal, right?</p> <p>2 A. Yeah.</p> <p>3 Q. And so, just to skip ahead then, so three days</p> <p>4 later you get an e-mail from Dr. Tewfik; and he</p> <p>5 indicates that he's -- you know, "We became aware this</p> <p>6 morning that you would like to hire your fiance as a</p> <p>7 part-time researcher in your group." And the department</p> <p>8 would not approve such an appointment. Is that</p> <p>9 accurate?</p> <p>10 A. Yeah.</p> <p>11 Q. And then he quotes a section from the Handbook</p> <p>12 of Operating Procedures about -- about University</p> <p>13 employees -- well, I guess I should probably read it</p> <p>14 directly. So it says -- his e-mail says, "No University</p> <p>15 employee may approve, recommend, or otherwise take</p> <p>16 action with regard to the appointment, reappointment,</p> <p>17 promotion, salary, or supervision of a close relative as</p> <p>18 defined by this policy." Did I read that correctly?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. But, I mean, in fairness to you, when</p> <p>21 you sent the e-mail to Karen Little, you had no idea</p> <p>22 that that was at all problematic, right?</p> <p>23 A. Correct.</p> <p>24 Q. Okay. And in -- and scrolling down to the</p> <p>25 next e-mail, you respond and you say that you were not</p>	<p>76</p> <p>1 his business partners with whom I also had</p> <p>2 conversations.</p> <p>3 And then he began spending a significant</p> <p>4 chunk of time in the spring semester when we were at</p> <p>5 Simons. So that would have been Spring of 2018 when I</p> <p>6 went to Simons and I took my whole family with me. For</p> <p>7 that time it was my son -- I guess at that time I only</p> <p>8 had one child, and I was pregnant with my second. And</p> <p>9 Jimmy basically came to the Simons Institute, listened,</p> <p>10 sat in on many discussions between me and other</p> <p>11 researchers, me and my students; and over time, you</p> <p>12 know, started contributing. Kind of he got the gist of</p> <p>13 what we are looking for, and started contributing; and</p> <p>14 it was a very fruitful time. Basically, that's where</p> <p>15 the collaboration with him took off; and it has led to</p> <p>16 several -- I think we have a couple of publications now</p> <p>17 and several in progress.</p> <p>18 Q. I should probably take this opportunity to</p> <p>19 ask a little more about his educational background.</p> <p>20 What is -- I know you mentioned wind farm development.</p> <p>21 What is -- tell me more about what your husband does,</p> <p>22 please.</p> <p>23 A. Yeah. So he's an entrepreneur, and he -- so</p> <p>24 he has a bachelor's degree in mechanical engineering;</p> <p>25 and he also is ex-Navy. So he did a nuclear engineering</p>
<p>75</p> <p>1 aware of the policy and that you wouldn't have asked</p> <p>2 otherwise?</p> <p>3 A. Correct.</p> <p>4 Q. And so is it accurate to say that your fiance</p> <p>5 was -- had been spending close to 20 hours a week</p> <p>6 assisting you in your research work?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. How -- how long -- I guess for what</p> <p>9 period of time was he working with you on your research?</p> <p>10 A. We started conversations almost as far back as</p> <p>11 we met.</p> <p>12 Q. Uh-huh.</p> <p>13 A. He -- when I met him, he -- he's a wind farm</p> <p>14 developer. He works in the industry. He's not an</p> <p>15 academic. He does not have a Ph.D. And just over</p> <p>16 the -- you know, naturally, people ask each other,</p> <p>17 "What do you do? What do you do for work" and so on;</p> <p>18 and so as he got to know more about my work and I got to</p> <p>19 know more about his work, we felt it would be an</p> <p>20 opportunity -- a rare opportunity for an academic to</p> <p>21 interface with an industry person and sort of bridge</p> <p>22 that gap between academia and industry to bring forward</p> <p>23 some, you know, unique and interesting projects. So we</p> <p>24 had conversations on and off, sometimes more in-depth</p> <p>25 for years; but then he -- and he introduced me to one of</p>	<p>77</p> <p>1 program at the Navy that he is very proud of. And he</p> <p>2 was operating a nuclear power plant on an aircraft</p> <p>3 carrier for a while before he went -- he decided to go</p> <p>4 to school. So then he got a bachelor's degree in</p> <p>5 mechanical engineering from the University of North</p> <p>6 Texas; and how, by fluke, I understand, he got into wind</p> <p>7 farm development. And that's what he's been doing ever</p> <p>8 since.</p> <p>9 Q. So I guess at this time in 2018 what was --</p> <p>10 was he -- did he have a specific job? I get that he has</p> <p>11 this very impressive background. I'm just trying to</p> <p>12 figure out, what was he doing from an occupation</p> <p>13 standpoint at this time?</p> <p>14 A. Correct. So he had completed several projects</p> <p>15 for wind farm development successfully, and he had</p> <p>16 decided to take a break and retire from wind farm</p> <p>17 development. It had to do with business incentives and</p> <p>18 so on in that area.</p> <p>19 And he was basically looking for</p> <p>20 something new, and he always wanted -- he felt that his</p> <p>21 mom and dad had a good relationship. Part of what made</p> <p>22 the relationship successful between his mom and dad is</p> <p>23 that they worked together, and so he was very keen on us</p> <p>24 finding a way to work together. And so he basically</p> <p>25 kind of, you know, tried to learn about research and see</p>



<p style="text-align: right;">78</p> <p>1 if he could work together with me. So that's how this  2 came about. So he wasn't actively doing anything else  3 at that time. I guess, you could say he's a  4 househusband. He hates -- he hates that.  5 Q. I won't use -- I won't use the phrase in case  6 he ever sees the transcript; but so he was helping you  7 with your research and helping, you know, with the  8 family unit. How long was that true?  9 A. Let me see. So he -- I don't remember the --  10 the timeline of when exactly his project closed. I  11 remember there was a time when our first child, our son,  12 Julian was born it was quite tense at home with a new  13 baby; and he -- it was a very intensive work period for  14 him with the wind farm development. He was in a phase  15 that required a lot of work hours and some travel.  16 And at some point that kind of went away;  17 and so whenever his part was completed, gradually, his  18 time commitment reduced. And he started looking out for  19 something new. And, again, you know, it's a gradual  20 thing where we had sporadic conversations on my work;  21 and, for sure, I remember that that spring semester he  22 wasn't actively working on any wind farm development.  23 But he always does -- he does a million  24 things. So he -- when his wind farms closed, he got  25 some investments. So he was managing his invest- -- I</p>	<p style="text-align: right;">80</p> <p>1 he's still doing that?  2 A. Well, he -- he -- that's another -- whole  3 other sentence. We've gone to couple's counseling for  4 that. But, basically, he resents the role of being a  5 household husband; and he feels that now, because of not  6 having, like, an active full-time job, like, regular  7 employees do, that he ends up bearing more of the house-  8 hold responsibilities --  9 Q. Gotcha.  10 A. -- at the moment. Also, myself, I'm going  11 through a difficult period. So it's an ongoing  12 conversation between, you know, household chores and  13 baby duties.  14 Q. Right. Okay. I think we are done with that  15 document, so.  16 All right. Let's see. I think we're on  17 Exhibit 81; although, hopefully, Bob will be kind enough  18 to correct me if I'm wrong. I think I'm on 81.  19 MR. SCHMIDT: You're correct.  20 MR. DOWER: All right. Thank you, Bob.  21 (Exhibit 81 marked.)  22 A. Okay. I have it open. Let me save it.  23 Q (BY MR. DOWER) Let me know when you've had a  24 chance to peruse it. I don't want to ask you questions  25 until you're ready.</p>
<p style="text-align: right;">79</p> <p>1 mean, house -- like property. He bought some houses  2 that he rents out, and so he was -- he's always doing  3 something. So he's not one, you know, without doing  4 anything.  5 Q. Gotcha.  6 A. Basically, he made the time to -- he makes  7 time to, you know, work with me --  8 Q. Uh-huh.  9 A. -- as a collaborator.  10 Q. Right. So he'd been -- he'd been  11 collaborating with you, obviously, in your personal  12 lives; but I mean professionally, he'd been  13 collaborating with you for, I guess, over a year at the  14 time you sent this e-mail in April of 2018?  15 A. Yeah, I think that's fair to say.  16 Q. Okay. And I'm, like, quoting the e-mail  17 because it, "He's been assisting me for over a year  18 now." So that's where I'm getting that. Okay.  19 Okay. And then is he still -- well, I  20 guess -- I'm going to use the phrase; but I know that  21 you say he wouldn't like it; but the household, is he  22 still sort of playing the household husband role while  23 all these various side projects are going on?  24 A. He complains about it every so often, yeah.  25 Q. Okay. So the answer to my question is: Yes,</p>	<p style="text-align: right;">81</p> <p>1 A. Okay. So I have saved this. Okay. I have  2 saved this, and I have it open in front of me. Would  3 you like me to read it?  4 Q. I think, in fairness to you, you should  5 definitely look at it before I start asking questions,  6 so yeah. I don't know whether you need to look at the  7 whole thing because the other -- the follow-up pages are  8 your third-year review. I'm mostly going to ask you  9 about the e-mail on the first page.  10 A. Okay. So let me read the e-mail on the first  11 page.  12 (Witness silently reading document.)  13 I've read the e-mail.  14 Q. Okay. So before we get into the nitty-gritty  15 of this, of the e-mail, so can you just tell us what the  16 third-year review is, just generally?  17 A. My understanding of it is that it's a review  18 which is typically performed in the middle of one's  19 tenure -- probationary -- in the middle of one's  20 probationary period in order to inform a candidate how  21 they're doing and help them make suggestions, if they  22 need to, to make sure they're successful during the  23 tenure review.  24 Q. Well said. Okay. So, in your situation --  25 well, first of all, this e-mail is dated May 31st, 2018,</p>

<p>82</p> <p>1 correct?</p> <p>2 A. Correct.</p> <p>3 Q. And so this is -- this is when you're in the</p> <p>4 midst of your -- I guess preparing your tenure case,</p> <p>5 correct?</p> <p>6 A. Correct.</p> <p>7 Q. Yeah. So you had -- you know, you decided --</p> <p>8 or you were going up for tenure early; and so instead of</p> <p>9 this being at the sort of the halfway point or midway</p> <p>10 through your tenure period, you're going up, like, while</p> <p>11 this is going on, correct?</p> <p>12 A. Correct.</p> <p>13 Q. Okay. And so, basically, what they decided to</p> <p>14 do was to remove some of the constructive feedback</p> <p>15 because they didn't want to put anything that indicated</p> <p>16 any, like, sort of room-for-improvement areas, given</p> <p>17 that you were going up for tenure that year. Is that</p> <p>18 fair?</p> <p>19 A. You could say that, yes.</p> <p>20 Q. Okay. Would you agree with that? I know I</p> <p>21 said it; but, I just -- I mean, is that a fair</p> <p>22 statement?</p> <p>23 A. Yeah. The reason I'm a little bit -- you</p> <p>24 know, I say, "You could say that," right, instead of</p> <p>25 just saying "Yes, you're correct" --</p>	<p>84</p> <p>1 have two more years to tenure; and so they essentially</p> <p>2 are telling you how you should spend those next two</p> <p>3 years. So this is very different from actually, you</p> <p>4 know, advising you on a clearcut goal, like: Oh, you</p> <p>5 have to do ABC. You have only done A and B; therefore,</p> <p>6 you need to do C. Does that make sense?</p> <p>7 Q. Yeah. So there are some suggestions that</p> <p>8 would normally be included which are the subjective</p> <p>9 suggestions by the people -- the faculty who prepared</p> <p>10 the third-year review; and you don't -- because the</p> <p>11 process itself is somewhat subjective, you know, you're</p> <p>12 not -- you're not necessarily -- you don't necessarily</p> <p>13 agree with the suggestions that they would normally</p> <p>14 include? Is that a -- is that a fair statement?</p> <p>15 A. Again, it's not that I do not agree with them.</p> <p>16 I take them as they are, and I work on them. And so</p> <p>17 this is what I did. I took the review as it was and I</p> <p>18 kind of addressed what I felt, you know, the suggestions</p> <p>19 were and so I worked on it. Whether I agree with it is</p> <p>20 a different question. I help --</p> <p>21 Q. Okay. Well, let me -- let me just ask you</p> <p>22 this: The suggestions that were originally in the draft</p> <p>23 of your third-year review were removed from the final</p> <p>24 version, correct?</p> <p>25 A. This is what the e-mail states, correct.</p>
<p>83</p> <p>1 Q. Yeah.</p> <p>2 A. -- I would not quite word it the way that you</p> <p>3 did; and part of it is that both the tenure bar and the</p> <p>4 third-year review are highly subjective. That's one</p> <p>5 thing that I have a huge issue with and that I think's</p> <p>6 at the core of this discrimination complaint.</p> <p>7 Q. Uh-huh.</p> <p>8 A. And so I feel that in this third-year review,</p> <p>9 you know, a lot of random things may get said, like</p> <p>10 arbitrary suggestions that aren't necessarily -- you</p> <p>11 know, this is -- it's not like -- it's not a clearcut:</p> <p>12 Okay. We need five papers to get tenure; and we see</p> <p>13 that you have, you know, published three. So you need</p> <p>14 to publish two more, right? So this is something very</p> <p>15 clear.</p> <p>16 This -- there's no clear numbers for any</p> <p>17 category. There are no clear, you know, expectations.</p> <p>18 Everything is very subjective, and it's subject to being</p> <p>19 distorted. A lot of it is perception. And so that's</p> <p>20 why I wouldn't word it the way you did.</p> <p>21 Yes, people in the third-year review, I</p> <p>22 think, do their best to give constructive feedback so</p> <p>23 the candidate is successful. At the same time, there is</p> <p>24 this thing about the third-year review, you know, middle</p> <p>25 of the runway, to where, you know, they expect that you</p>	<p>85</p> <p>1 Q. Okay. Do you know whether that's accurate,</p> <p>2 whether this e-mail is accurate?</p> <p>3 A. I don't -- I know there were two versions of</p> <p>4 the third-year review, and I'd have to go back word for</p> <p>5 word to see what exactly was removed. So I don't</p> <p>6 remember what the suggestions were and what suggestions</p> <p>7 were removed.</p> <p>8 Q. Okay. So you don't know whether -- well, you</p> <p>9 can't really, sitting here right now, say whether or not</p> <p>10 it's accurate; but this e-mail indicates that -- that</p> <p>11 they had agreed to the corrections you had suggested</p> <p>12 based on the fact that you were going up for promotion?</p> <p>13 A. Correct. That's what the e-mail states.</p> <p>14 Q. And you don't, sitting here right now, have</p> <p>15 any basis to either agree or disagree with it because</p> <p>16 you just don't remember?</p> <p>17 A. Correct. I remember one thing, which</p> <p>18 states -- which states after the edits, which was the</p> <p>19 suggestion to have a couple extra publications. I</p> <p>20 remember that. And since I didn't remember any other</p> <p>21 suggestion, that's why I couldn't answer your question</p> <p>22 affirmatively, because I know that this was the major</p> <p>23 suggestion that essentially stayed in that corrected</p> <p>24 draft. So I don't recall other, you know, serious</p> <p>25 suggestions, like, were there before and were removed.</p>

<p style="text-align: right;">86</p> <p>1 Q. Could you point out which part you're</p> <p>2 referring to, since we have the -- the version right</p> <p>3 here?</p> <p>4 A. Yeah, let me look through it.</p> <p>5 Q. Yeah, yeah. Take your time. I'm not trying</p> <p>6 to rush you.</p> <p>7 A. Oh, okay. So maybe this is what was removed</p> <p>8 because I don't see it now in the summary paragraph.</p> <p>9 I'm just looking in the summary paragraph. So the</p> <p>10 summary paragraph reads, "Dr. Nikolova has established a</p> <p>11 solid research program in game theory, network</p> <p>12 optimization, and algorithms. She has achieved notable</p> <p>13 success at funding and has the expected productivity in</p> <p>14 terms of papers and students. Her teaching is valuable</p> <p>15 to the department and well-rated at both the</p> <p>16 undergraduate and graduate levels. Her service record</p> <p>17 is appropriate for an Assistant Professor. Post-tenure,</p> <p>18 it would be good for her to become more actively</p> <p>19 involved in leadership activities internally and</p> <p>20 externally." So maybe this is what I'm remembering, and</p> <p>21 it may be somewhere further up. But maybe this was the</p> <p>22 suggestion I'm remembering that was removed, which was</p> <p>23 to have a couple extra publications.</p> <p>24 Q. Okay. So your memory is that there was</p> <p>25 originally a suggestion that you might need some more</p>	<p style="text-align: right;">88</p> <p>1 comment. So it's possible that it was in the earlier</p> <p>2 version and it was removed.</p> <p>3 MR. DOWER: Okay. That's all I have for</p> <p>4 this document, and this is kind of a good transition</p> <p>5 point. So maybe we could take the lunch break now since</p> <p>6 it's noon. Is that okay with everyone?</p> <p>7 MR. SCHMIDT: That's fine with us.</p> <p>8 THE WITNESS: Yes.</p> <p>9 MR. DOWER: Okay. Should we just say</p> <p>10 come back at 1:00 or...</p> <p>11 MR. SCHMIDT: That works with us as well.</p> <p>12 THE REPORTER: We're going off the record</p> <p>13 at 12:06 p.m.</p> <p>14 (Off the record from 12:06 to 1:00 p.m.)</p> <p>15 THE REPORTER: We're going back on the</p> <p>16 record at 1:00 p.m.</p> <p>17 Q (BY MR. DOWER) All right. So I kind of want</p> <p>18 to shift the discussion, now that we're back from the</p> <p>19 lunch break, to the actual tenure process and the</p> <p>20 decision to go up for tenure early.</p> <p>21 So I guess the first question would</p> <p>22 probably be: When did you first decide to go ahead and,</p> <p>23 you know, pull the trigger on going up for tenure in the</p> <p>24 '18-'19 cycle?</p> <p>25 A. That was not my decision.</p>
<p style="text-align: right;">87</p> <p>1 publications, and it looks like it was removed from the</p> <p>2 final version?</p> <p>3 A. That's what it looks to me at the moment,</p> <p>4 yeah.</p> <p>5 Q. Okay. And if you want to review the whole</p> <p>6 thing -- I mean, it's three pages; but, at the same</p> <p>7 time, it's only three pages. So if you want to review</p> <p>8 the whole thing to see if it's anywhere else in here,</p> <p>9 you know, please, be my guest.</p> <p>10 A. Okay. Sure. Yeah, I can -- I can read that</p> <p>11 now.</p> <p>12 MR. SCHMIDT: I don't want to interject</p> <p>13 in your deposition; but I do think for her to be able to</p> <p>14 state whether or not something was removed, she'd have</p> <p>15 to see, probably, both documents to make that -- at</p> <p>16 least, that would be the way to conclusively make that</p> <p>17 statement.</p> <p>18 MR. DOWER: I appreciate that. I don't</p> <p>19 have the other one on hand, but she did testify that she</p> <p>20 remembers this one comment. So we can at least</p> <p>21 determine for that one whether it's in this version.</p> <p>22 MR. SCHMIDT: I understand.</p> <p>23 MR. DOWER: Okay.</p> <p>24 A. (Witness silently reading document.)</p> <p>25 Yeah. I read it, and I didn't see that</p>	<p style="text-align: right;">89</p> <p>1 Q. Okay.</p> <p>2 A. I was advised to go up by Professor Sanjay</p> <p>3 Shakkottai.</p> <p>4 Q. Okay. And so what did Sanjay Shakkottai tell</p> <p>5 you?</p> <p>6 A. He -- we had -- I believe we had a lunch</p> <p>7 meeting around September 2017, so the preceding year, in</p> <p>8 which he said, "Hey, I think you're ready now; And</p> <p>9 things are changing at the college where if you go up</p> <p>10 now, you will not be considered early. You will be</p> <p>11 technically early, but you will not be" --</p> <p>12 THE WITNESS: Hello?</p> <p>13 MR. DOWER: I'm still here.</p> <p>14 THE WITNESS: Oh, everything crashed</p> <p>15 here; but you still hear me, I guess?</p> <p>16 MR. SCHMIDT: We still hear you, yes.</p> <p>17 MR. DOWER: Oh. Oh, shoot.</p> <p>18 THE WITNESS: Oh, the video crashed.</p> <p>19 MR. DOWER: Yeah, it really did.</p> <p>20 MR. SCHMIDT: Yeah, the video is gone.</p> <p>21 THE WITNESS: Okay. Just a second. I</p> <p>22 just want to adjust my computer screen.</p> <p>23 MR. NOTZON: Want to go off the record</p> <p>24 while we figure this out?</p> <p>25 MR. DOWER: Sure.</p>

<p style="text-align: right;">90</p> <p>1 THE REPORTER: Off the record at  2 1:02 p.m.  3 (Off the record from 1:02 to 1:02 p.m.)  4 THE REPORTER: We'll go back on the  5 record at 1:02 p.m.  6 Q. (BY MR. DOWER) So I don't know whether to let  7 you finish or pick up with a new question. What would  8 you prefer, Dr. Nikolova?  9 A. Let me try to remember what I said. I think  10 we were discussing -- yeah. Yeah, Sanjay Shakkottai, we  11 had a conversation around September the preceding year,  12 2017, in which he said, "Hey, I think you're ready now;  13 and things are changing at the college." I remember him  14 saying that things are changing at the college because  15 we had had that conversation in preceding years where he  16 said, "Oh, well, there is this thing that if you go up,  17 you will be -- you may be held to a higher bar."  18 And he specifically came to me that  19 September saying, "Hey, things are changing at the  20 college now. You will not -- you can go up now because  21 you will -- because you will not be held to a higher  22 bar. You are technically early, but you are not truly  23 early. So I think it's a good time for you to go up  24 now. Also, given that it's Ahmed's eighth year, final  25 year as Chair, and, you know, next year we'll have a new</p>	<p style="text-align: right;">92</p> <p>1 didn't -- you couldn't say -- you couldn't say, "I'd  2 rather -- I'd rather wait another year," that you --  3 MR. SCHMIDT: Objection, form. I'm  4 sorry.  5 Q. (BY MR. DOWER) That you had no choice in the  6 matter?  7 MR. SCHMIDT: Objection, form.  8 A. This was not the discussion we had. It was  9 not about me saying, "Oh, I'm" -- about me having a  10 choice. It's -- I think it was -- I had had this  11 conversation with both Sanjay and Ahmed about the timing  12 of when to go up for tenure. I was expecting to go up  13 for tenure around my normal time clock, which would have  14 been two years earlier.  15 And so when that time came, I sort of  16 asked, you know, "What's going on? Should I be  17 considered now; or if not, you know, what do I need to  18 do to prepare?" And so I had had this conversation with  19 both Ahmed and Sanjay. It was not about that, oh, I had  20 a choice. I was -- I was waiting for the Department to  21 give me the green light to go up.  22 Q. (BY MR. DOWER) Okay. So because of the time  23 you'd spent at A&amp;M, you wanted to go up as early as you  24 could -- or at least as early as was advisable; and  25 once they said the green light, go ahead, you wanted to</p>
<p style="text-align: right;">91</p> <p>1 Chair; we don't know what will happen. And Ahmed has  2 all the experience, so now is a good time."  3 Q. So -- so just to be clear, so you had a choice  4 about whether to initiate the process; and you exercised  5 that choice based on the advice of Sanjay Shakkottai.  6 Is that fair?  7 A. No, it was never my understanding that it was  8 up to me to initiate the process.  9 Q. So even though --  10 A. I thought that would come --  11 Q. Go ahead. Sorry. I apologize.  12 A. Sorry. I thought that would come from the  13 Chair or somebody at the department telling me, you  14 know, "It's time for us to consider you." And that's  15 what happened. Sanjay came to me and said, "It's time."  16 Q. And what was his position at that time?  17 A. He was serving as a mentor to me.  18 Q. Okay.  19 A. He was not an official mentor, but he had been  20 serving as the de facto mentor. He was my unofficial  21 mentor.  22 Q. Oh, okay. So your unofficial mentor advised  23 you to go -- to go up at that time?  24 A. Correct.  25 Q. Okay. And it's your understanding that you</p>	<p style="text-align: right;">93</p> <p>1 take -- you know, go ahead and start the process at that  2 point?  3 MR. SCHMIDT: Objection, form.  4 A. I wanted to go up -- I wanted to go up as  5 early as was fair.  6 Q. (BY MR. DOWER) And when Sanjay was referring  7 to a change at the college, did he mean a change in the  8 college of -- at the Cockrell School of Engineering?  9 A. I don't know what he meant.  10 Q. Okay. Did you talk to anyone else other than  11 Sanjay at that time about whether or not your -- it was  12 advisable to go up for tenure at that time?  13 A. I sought out advice from a couple other  14 faculty. I remember seeking out advice from Gustavo de  15 Valenciano.  16 THE WITNESS: Do you need the spelling of  17 that?  18 MR. DOWER: Probably.  19 THE WITNESS: I'm sorry. I didn't hear.  20 THE REPORTER: Yes, please.  21 THE WITNESS: Gustavo is spelled  22 G-U-S-T-A-V-O and then a separate word, small letters  23 D-E; and then the last name is Valenciano. I may  24 butcher that, but it's something like that  25 V-E-C-I-A-N-A [sic.] I may have missed a syllable</p>

<p style="text-align: right;">94</p> <p>1 there.</p> <p>2 MR. DOWER: That's all right. Close</p> <p>3 enough. We can always go back and cross-reference with</p> <p>4 an e-mail or something and correct the spelling in an</p> <p>5 errata sheet if we need to, all of which is to say:</p> <p>6 Don't worry about it.</p> <p>7 Q. (BY MR. DOWER) Who -- can you remember anyone</p> <p>8 else that you sought advice from at that time period?</p> <p>9 A. Yeah. I had a conversation with Christine</p> <p>10 Julien; but the conversation was not, "Hey, do you think</p> <p>11 I'm ready," because that's -- she was not close to my</p> <p>12 area; and I had already had that conversation with</p> <p>13 Sanjay, who had told me that I'm ready. So in my</p> <p>14 conversation with her, it was more asking her about what</p> <p>15 the process is; and she told me what the process is.</p> <p>16 And she -- after that conversation, which happened</p> <p>17 around November of 2017, she advised me on the process;</p> <p>18 and she sent me by e-mail a form, which was the Dean</p> <p>19 Summary Sheet. She told me all -- "This is what you</p> <p>20 need to do. You need to fill out this Dean Summary</p> <p>21 Sheet, talk to Ahmed, discuss it with Ahmed; and then</p> <p>22 Ahmed goes to the Dean and discusses your case with the</p> <p>23 Dean to see whether the Dean would give the green light</p> <p>24 and so on."</p> <p>25 Q. And so did you then talk to Ahmed?</p>	<p style="text-align: right;">96</p> <p>1 case to the Budget Council at the beginning of that</p> <p>2 process?</p> <p>3 A. Correct.</p> <p>4 Q. Was that -- was that Sanjay Shakkottai who</p> <p>5 made the presentation?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. Are you present at the meeting of the</p> <p>8 Budget Council when they're talking about your -- your</p> <p>9 tenure case?</p> <p>10 A. No. I'm forbidden from being present, and I</p> <p>11 believe the meeting is closed to assistant professors.</p> <p>12 And it may also be closed to associates. I'm not sure.</p> <p>13 Q. And so, actually, earlier when you alluding to</p> <p>14 a text from Sanjay that said -- that he sent you after</p> <p>15 he made the presentation -- do you remember testifying</p> <p>16 about that earlier this morning?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. So just to tie this together, so he</p> <p>19 would have sent you that text after his presentation to</p> <p>20 the Budget Council; is that correct?</p> <p>21 A. Yes.</p> <p>22 Q. And do you remember when your tenure case was</p> <p>23 initially presented to the Budget Council, just to</p> <p>24 approve whether or not to continue with the process?</p> <p>25 A. Do you refer to the presentation to the Budget</p>
<p style="text-align: right;">95</p> <p>1 A. Yes. After my conversation with Christine, I</p> <p>2 received that form from her. I filled it out. I</p> <p>3 scheduled a conversation with Ahmed. And, again, it</p> <p>4 was, I told him, "You know, Sanjay thinks I'm ready to</p> <p>5 go up this year. What is the process?"</p> <p>6 And Ahmed said, "Well, this is what</p> <p>7 happens. That's what the process is like, A, B, C. You</p> <p>8 have to do these documents, A, B, C. I'll take your</p> <p>9 documents. I'll discuss your case with the Dean. And</p> <p>10 then the Department is going to vote on your case; and</p> <p>11 then, you know, if everything goes well, then you can</p> <p>12 officially start the process in the summer."</p> <p>13 Q. And so -- so did -- and it's my understanding</p> <p>14 that someone presented your case to the -- is it the</p> <p>15 Budget Council or the Budget Committee? I'm blanking</p> <p>16 out. What's the name of the department-level body? Do</p> <p>17 you remember?</p> <p>18 A. I believe it's Budget Council.</p> <p>19 Q. Okay. That sounds right. So it's my</p> <p>20 understanding that there's an initial vote by the Budget</p> <p>21 Council on whether to approve the tenure case, sort of</p> <p>22 starting the process. Is that your understanding as</p> <p>23 well?</p> <p>24 A. That's my understanding as well.</p> <p>25 Q. Right. And so -- and someone presented your</p>	<p style="text-align: right;">97</p> <p>1 Council before I submitted my tenure documents or after</p> <p>2 I submitted my tenure documents?</p> <p>3 Q. Great question. I'm referring to the before,</p> <p>4 at the very beginning of the process.</p> <p>5 A. Yeah. Can you repeat your question now? I'm</p> <p>6 sorry.</p> <p>7 Q. Yeah. I'm trying to figure out whether --</p> <p>8 when -- when did that happen?</p> <p>9 A. This happened in late Spring of 2018. I want</p> <p>10 to say early May, to the best of my recollection.</p> <p>11 Q. Okay. And so once the Budget Council gave its</p> <p>12 initial approval to you going forward with the tenure</p> <p>13 case, is that when you started preparing the dossier?</p> <p>14 A. Correct.</p> <p>15 Q. And can you tell me -- can you tell me about</p> <p>16 the process of assembling your dossier? And if it would</p> <p>17 be easier, I can probably make an exhibit; and then we</p> <p>18 can just sort of talk through it if that would be easier</p> <p>19 to organize the conversation.</p> <p>20 A. Yes, please.</p> <p>21 Q. Yeah, let's do that. I agree. It's easier to</p> <p>22 talk when you've got a document in front of you. So</p> <p>23 give me one second.</p> <p>24 Okay. This is going to take a second to</p> <p>25 upload because it's a little bit bigger file than some</p>

<p>98</p> <p>1 of the other PDFs.</p> <p>2 Okay. It should be uploaded. So you</p> <p>3 should be able to download it now.</p> <p>4 A. I'm downloading.</p> <p>5 Q. It may take a second, and this has been</p> <p>6 previously marked as Exhibit 39.</p> <p>7 (Exhibit 39 discussed.)</p> <p>8 A. It looks like it may take several minutes on</p> <p>9 my end.</p> <p>10 Q (BY MR. DOWER) Well, while we're waiting, did</p> <p>11 you talk to anyone else about whether it was advisable</p> <p>12 to initiate the tenure process when you did it -- or, I</p> <p>13 guess, when it was initiated?</p> <p>14 A. I don't recall at the moment talking to</p> <p>15 anybody else, specifically asking whether it's a good</p> <p>16 idea to go up at that time.</p> <p>17 Q. Is it still downloading?</p> <p>18 A. Yeah, it's about 40 percent downloaded.</p> <p>19 MR. SCHMIDT: I'm reaching out to our IT</p> <p>20 guy right now, as we speak, to see if they can figure</p> <p>21 out what's the deal, so.</p> <p>22 THE WITNESS: I think it's a very large</p> <p>23 file. It's my whole dossier.</p> <p>24 MR. DOWER: Yeah, it's 24 megabytes, so.</p> <p>25 MR. NOTZON: For the record, that's not</p>	<p>100</p> <p>1 present rank are -- there's 5.5 total years in present</p> <p>2 rank. Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. So at the time -- at the time this is</p> <p>5 calculated, it had you at 5.5 years as an assistant</p> <p>6 present -- as an assistant professor at UT Austin. Is</p> <p>7 that what you understand that to mean?</p> <p>8 A. Yes.</p> <p>9 Q. And then it has four years in probationary</p> <p>10 status, correct?</p> <p>11 A. Yes.</p> <p>12 Q. And so the years in probationary status are</p> <p>13 1.5 fewer than your years in present rank, you know, 5.5</p> <p>14 minus 4?</p> <p>15 A. Correct.</p> <p>16 Q. And so one of those years that's the gap is</p> <p>17 from your probationary extension in 2015 to '16,</p> <p>18 correct?</p> <p>19 A. Yes.</p> <p>20 Q. And then the other .5 comes from the fact that</p> <p>21 you started at UT in January of 2014, correct?</p> <p>22 A. Yes.</p> <p>23 Q. And so your probationary years, they don't do</p> <p>24 it by semester. It's basically whole numbers only,</p> <p>25 correct?</p>
<p>99</p> <p>1 me, the IT guy.</p> <p>2 (Laughter.)</p> <p>3 MR. SCHMIDT: I don't think anybody would</p> <p>4 have thought that, but I'm glad you clarified that.</p> <p>5 Any luck on that, Dr. Nikolova?</p> <p>6 THE WITNESS: It's about 80 percent on my</p> <p>7 end.</p> <p>8 MR. SCHMIDT: Okay. If you want to go</p> <p>9 off the record, Ben.</p> <p>10 MR. DOWER: Yeah, I just -- I hate to</p> <p>11 burn time just sitting here.</p> <p>12 THE REPORTER: We're going off the record</p> <p>13 at 1:21 p.m.</p> <p>14 (Off the record from 1:21 to 1:26 p.m.)</p> <p>15 THE REPORTER: We're going back on the</p> <p>16 record at 1:26 p.m.</p> <p>17 Q (BY MR. DOWER) Okay. So, Dr. Nikolova, the</p> <p>18 document that's Exhibit 39, the first page of that</p> <p>19 document is the Recommendation For Change in Academic</p> <p>20 Rank/Status form, correct?</p> <p>21 A. Correct.</p> <p>22 Q. Okay. And that shows at the top of it your --</p> <p>23 your years of academic service. Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. And so it lists that your years in</p>	<p>101</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And, obviously, these numbers do not</p> <p>3 count the two and a half years you spent at Texas A&amp;M,</p> <p>4 correct?</p> <p>5 A. Yes.</p> <p>6 Q. And do you have an understanding of the number</p> <p>7 of years that would make this an up-or-out case?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And so what do you believe that number</p> <p>10 to be for this form?</p> <p>11 A. The number of years in probationary status</p> <p>12 should be six.</p> <p>13 Q. Six. Okay. And so even if you had rescinded</p> <p>14 your probationary extension, you would not have been in</p> <p>15 your up-or-out year, correct?</p> <p>16 A. Yes.</p> <p>17 Q. I want to jump down a little bit. We started</p> <p>18 with this because I wanted to explore with you which</p> <p>19 parts of your dossier you prepared and some things of</p> <p>20 that nature. So let me jump down to page 14 of the PDF,</p> <p>21 which is the number in the bottom right that ends 317.</p> <p>22 It's got a big seven-digit number, but it's probably</p> <p>23 easier to refer to it by PDF page.</p> <p>24 A. Page -- I'm on page 14 of the PDF. Can you</p> <p>25 please confirm again what's --</p>



<p>102</p> <p>1 Q. Yeah. You should be looking at your standard 2 resume. 3 A. Yes. 4 Q. Okay. And so -- so this -- your resume is 5 something that you submitted as part of your dossier, 6 correct? 7 A. Yes. 8 Q. Okay. And so when you were preparing to 9 submit your dossier, one of the things that you had to 10 do was to go through and generate a -- a fairly -- 11 fairly lengthy resume that lists things like 12 publications, et cetera, correct? 13 A. Yes. 14 Q. Yeah. And it's got oral presentations. I 15 mean, this is a fairly detailed document. Would you -- 16 would you agree? 17 A. Yes. 18 Q. Okay. And it also lists on page 22 of the 19 PDF your grants and contracts -- or I guess starting on 20 page 22 of the PDF? 21 A. I'm on page 22 of the PDF now. 22 Q. Do you see at the bottom Grants and Contracts? 23 A. Yes. 24 Q. Okay. And so is this a document that you -- 25 that you've prepared as part of your dossier?</p>	<p>104</p> <p>1 A. Yes. 2 Q. And is this one of the documents that you had 3 some students help with the formatting on? 4 A. Yes, I believe so. 5 Q. Going down, there's -- on page 35 of the 6 dossier, there's what looks like an e-mail from the 7 Mathematics of Operations Research, dated 8 September 29th, 2017. Do you know why this was included 9 in the dossier? 10 A. Yes. 11 Did you want me to elaborate? 12 Q. Oh, yes. Sorry. Yes. Can you elaborate on 13 what this is? 14 A. Yes. So I think there was a question about 15 this journal publication which was accepted for 16 publication but was not yet officially hit the print. I 17 was asked to provide an e-mail just, you know, as 18 evidence that it was a bona fide paper that was accepted 19 for publication. 20 Q. Understood. 21 Okay. And then on the next page, on 22 page 36 of the PDF, we get into a series of tables with 23 things like research summaries and grants and contracts 24 awarded. Do you see that? 25 A. Yes.</p>
<p>103</p> <p>1 A. Yes. 2 Q. Okay. Is this -- is this something that you 3 had some students help with the formatting, like you 4 were referring to earlier? 5 A. Yes, I believe so. 6 Q. And so then we get to -- on page 26 of the 7 PDF, which is the -- this is more for the record; but 8 the one that says 329 in the bottom right. It's the 9 Candidate's Summary of Activities. Do you see that? 10 A. Yes. 11 Q. And so is this -- is this another -- this is a 12 chart. Did you generate this chart? 13 A. Yes, I believe so. So I think I was given a 14 template and probably the chart was in the template and 15 I just had to fill in the values in the second column. 16 Q. Perfect. Thank you for clarifying that. 17 And then you've got on the next page a 18 Complete reverse chronicle -- chronological list of 19 publications and scholarly/creative works? 20 A. Yes. 21 Q. Do you see that on page 27 of the PDF? 22 A. Yes. 23 Q. And is this another one of the documents that 24 you helped -- or that you prepared as part of your 25 dossier?</p>	<p>105</p> <p>1 Q. And so is this all -- is this part of the 2 stuff that you prepared for your -- for your 3 contribution to your dossier? 4 A. Yes. 5 Q. Okay. And then the next part of the document 6 is the Budget Council Assessment on Teaching 7 Performance, which it starts on page 38. Do you see 8 that? 9 A. Yes. 10 Q. Can you tell me, how does this part of the 11 process work in terms of having people on the Budget 12 Council perform an assessment of your teaching 13 performance? 14 A. So I was not aware at all about this part of 15 the dossier. In fact, I didn't -- I hadn't heard the 16 phrase Budget Council until after the fact. I didn't 17 know what it meant. I had never heard it, and I didn't 18 know that it was part of the tenure and promotion 19 process. 20 After I submit my documents, research 21 statements, teaching statements, service statements, and 22 so on, the Budget Council then prepares mirror versions 23 of these documents in the sense that they write their 24 own assessment of my teaching, research, service, 25 et cetera. So I learned that later.</p>



<p>106</p> <p>1 Q. So at the time you were preparing your</p> <p>2 dossier, you weren't aware that there were other people</p> <p>3 that would be doing an assessment of your dossier as</p> <p>4 part -- or, I guess, of your credentials as part of the</p> <p>5 dossier?</p> <p>6 MR. SCHMIDT: Objection, form.</p> <p>7 A. I was not aware that there would be written</p> <p>8 assessments of this form. I remember Sanjay mentioning</p> <p>9 something about it; but, again, it wasn't totally clear</p> <p>10 to me that this was what was happening. But he said</p> <p>11 something like, "Oh, somebody who is preparing something</p> <p>12 about your research is asking for some detail; and can</p> <p>13 you tell me -- can you elaborate on that part of your</p> <p>14 research?" And so I elaborated that to him. And he</p> <p>15 said, "Okay. Great. Thanks." So that is kind of the</p> <p>16 extent of my awareness.</p> <p>17 Q. And on page 42 of the PDF, you include your</p> <p>18 Teaching Statement, correct?</p> <p>19 A. Yes.</p> <p>20 Q. Do you -- when you were preparing your</p> <p>21 Teaching Statement, did you consult with anyone about</p> <p>22 what type of information you ought to include in this?</p> <p>23 A. Yes. I sought help from as many colleagues as</p> <p>24 I could. I wanted to be well informed and well prepared</p> <p>25 for it. I sought out sample Teaching Statements from my</p>	<p>108</p> <p>1 performance than we expected from the appointed TAs,</p> <p>2 which we diligently tried to improve through increased</p> <p>3 communication in the weekly staff meetings. I believe</p> <p>4 that was the key factor for lowering my instructor and</p> <p>5 course evaluations."</p> <p>6 First of all, did I read those sentences</p> <p>7 correctly?</p> <p>8 A. Yes.</p> <p>9 Q. So what happened with the TAs in those</p> <p>10 courses? Can you elaborate on this a little bit and</p> <p>11 explain to me what happened?</p> <p>12 A. Yes. Yeah, relative to many of the courses in</p> <p>13 the ECE curriculum, EE 360C, which is undergraduate</p> <p>14 Algorithms mathematical course; and it includes as part</p> <p>15 of the course instruction and part of the student</p> <p>16 evaluation through homework and exams. And the problems</p> <p>17 with the assignments is the students have to write</p> <p>18 mathematical proofs, and this is something that they're</p> <p>19 expected to know. They're required. There is a course</p> <p>20 requirement of them having taken a prior course on</p> <p>21 mathematical proofs, but many students are not</p> <p>22 comfortable with this. They are not familiar; and that</p> <p>23 includes TAs, the TAs that we had, which are</p> <p>24 undergraduate and graduate students. Many just don't</p> <p>25 have sufficient familiarity and background with writing</p>
<p>107</p> <p>1 colleagues, Alex Dimakis, Constantine Caraminis, so that</p> <p>2 I can see example statements of successful tenure cases.</p> <p>3 I don't remember if I had a conversation</p> <p>4 that -- where someone specifically told me: This and</p> <p>5 this and this is what needs to be included. So I</p> <p>6 basically took those example statements, and I extracted</p> <p>7 what I expected the structure of the statement to be and</p> <p>8 the contents.</p> <p>9 I remember Sanjay telling me it's</p> <p>10 important to include a paragraph on student comments, on</p> <p>11 student evaluations; and that's where I included that</p> <p>12 paragraph on student evaluations right before Section 3</p> <p>13 on the Teaching Statement. But, basically, I took my</p> <p>14 colleagues' statements as an example. I wrote mine and</p> <p>15 then I e-mailed it to a couple of colleagues and I</p> <p>16 solicited feedback to see if it can be improved.</p> <p>17 Q. Well, let me draw your attention to the</p> <p>18 comments from student evaluations, just since you</p> <p>19 brought it up; and that's on page 44 of the PDF. Let me</p> <p>20 know when you're there.</p> <p>21 A. I'm there.</p> <p>22 Q. Okay. And so in this section you say, "In two</p> <p>23 of the semesters I taught the course (Fall 2016 and Fall</p> <p>24 2017) the available TA candidate pool was especially</p> <p>25 limited. That issue was coupled with even worse</p>	<p>109</p> <p>1 mathematical proof and just general, you know, knowledge</p> <p>2 of algorithms, the course content. So that's what I was</p> <p>3 referring to here.</p> <p>4 Q. Yeah. What's the division of labor between</p> <p>5 the professor teaching the class and the TAs?</p> <p>6 A. So I --</p> <p>7 (Simultaneous speakers.)</p> <p>8 Q. No. Sorry. Go ahead. Sorry.</p> <p>9 A. Yeah. When I came into UT and I was about to</p> <p>10 teach the course for the first time, I had presented a</p> <p>11 question because I didn't know what was appropriate to</p> <p>12 delegate to TA of what the course instructor does. And</p> <p>13 so I had that discussion with Professor Christine</p> <p>14 Julien, who had been teaching that course before I</p> <p>15 taught it for the first time. In fact, I was supposed</p> <p>16 to co-teach it with her; and I was really excited I</p> <p>17 would be able to kind of learn from her on those aspects;</p> <p>18 but she ended up not being able to teach it that first</p> <p>19 semester with me.</p> <p>20 In any case, she sort of told me what she</p> <p>21 does; and I tried to follow what she does, which was to</p> <p>22 delegate the -- I believe you're going to refer later on</p> <p>23 to some of the homework and programming assignment</p> <p>24 preparation to the TAs, as well as grading; and they</p> <p>25 were also grading weekly, homework weekly, short</p>

<p>110</p> <p>1 quizzes. They assisted with grading exams. Yeah. So,</p> <p>2 I mean, basically they were there to ensure the smooth</p> <p>3 running of the course and to assist the instructors with</p> <p>4 the smooth running of the course.</p> <p>5 Q. So when -- I guess going back then to just</p> <p>6 sort of the general timeline, so did -- to whom did you</p> <p>7 submit your dossier materials when you felt that they</p> <p>8 were done?</p> <p>9 A. I solicited feedback from different faculty on</p> <p>10 the different documents. So I submitted my Research</p> <p>11 Statement to some, my Teaching Statement to others, just</p> <p>12 not to overwhelm any one faculty with too many</p> <p>13 documents. And the Teaching Statement I solicited</p> <p>14 feedback from Christine Julien, as I mentioned. That</p> <p>15 was the closest person I felt could advise me well on it</p> <p>16 as well as Gustavo de Valeciano.</p> <p>17 Q. And so after you got their feedback, did they</p> <p>18 send you proposed edits; or was it more like, "Here's</p> <p>19 some pointers" and they didn't try to make actual</p> <p>20 changes to drafts?</p> <p>21 A. No, I never heard back from them.</p> <p>22 Q. Oh, okay.</p> <p>23 A. And I was somewhat disheartened about it, and</p> <p>24 I just figured they were busy and didn't really push it.</p> <p>25 Q. What about the -- what about the sending in of</p>	<p>112</p> <p>1 or the would-be reviewer?</p> <p>2 A. Once the statement is prepared, my</p> <p>3 understanding there is that the Chair submits it to the</p> <p>4 Dean's Office; and the Dean needs to approve it before</p> <p>5 the Chair then solicits the letters.</p> <p>6 Q. I see. Okay. So it's your understanding that</p> <p>7 the Chair is the one who actually reaches out to the</p> <p>8 various persons that have been identified?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. But in any event, the professors who</p> <p>11 are sending these letters, they don't just send them in</p> <p>12 on their own volition. They're all letters that were</p> <p>13 solicited by the Chair of the Department?</p> <p>14 A. Yes. On this list, yes.</p> <p>15 Q. Okay. So once the dossier materials have been</p> <p>16 finalized, do you send, like, a PDF to someone and say,</p> <p>17 "Here's my contribution to the dossier?" How does the</p> <p>18 actual submission process work?</p> <p>19 A. So we had a promotion meeting for all</p> <p>20 promotion candidates and their mentors and the</p> <p>21 Department Chair before the official start of the</p> <p>22 process. The Department Chair introduced us to a lady</p> <p>23 called Jilda, and he said that she would be assisting</p> <p>24 all the promotion candidates with their dossiers. She</p> <p>25 was sort of the guard of procedures and rules and</p>
<p>111</p> <p>1 external review letters? Can you tell me about how that</p> <p>2 process worked?</p> <p>3 A. Sure. I was asked by the Chair,</p> <p>4 Professor Tewfik, to prepare a document that listed all</p> <p>5 the letter writers that should be asked for letters or</p> <p>6 would be good candidates to ask for letters; and they</p> <p>7 were the result of discussions between my mentor, Sanjay</p> <p>8 Shakkottai, and me. So it was: Some names would come</p> <p>9 from me, and they were labeled as candidate names. And</p> <p>10 some names would come from Sanjay, and they were labeled</p> <p>11 as department names.</p> <p>12 Q. Actually -- okay. Well, go to page 85 of the</p> <p>13 PDF; and this may help demonstrate what you just said.</p> <p>14 Are you there?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. So like the letter at the top, the</p> <p>17 first one says, "Nominated by Department." Do you see</p> <p>18 that?</p> <p>19 A. Yes.</p> <p>20 Q. So that would be an example of when the</p> <p>21 Department reached out to that particular professor; is</p> <p>22 that correct?</p> <p>23 A. They -- the Department did not necessarily</p> <p>24 reach out, but the Department suggested the name.</p> <p>25 Q. I see. So who actually contacts the professor</p>	<p>113</p> <p>1 regulations, and so they were advising us on all the</p> <p>2 documents that need to be submitted.</p> <p>3 So we were interacting with her. Each</p> <p>4 candidate was interacting with her. So we would send</p> <p>5 her things; and then she would send things back saying,</p> <p>6 "Oh, you have missed a comma here and a period there;</p> <p>7 and you need to change the format of this or that." So</p> <p>8 she was -- it was her responsibility as the keeper, I</p> <p>9 guess, or the guardian that the rules are met for the</p> <p>10 formal formatting and so on of the document.</p> <p>11 So, basically, I was interacting with</p> <p>12 Jilda on all of the documents; and I would send her</p> <p>13 copies of everything. And then she would -- she would</p> <p>14 also offer edits. So she actually had read my Teaching</p> <p>15 Statement; and she offered some minor wording edits, I</p> <p>16 think, on grammar and to just improve the flow of the</p> <p>17 language. And I -- so we had multiple back and forth;</p> <p>18 and then I would keep asking, "Okay. Is there anything</p> <p>19 else that needs correction?"</p> <p>20 And so whenever she said, "Okay. It</p> <p>21 looks good now," that was the final. And so I have --</p> <p>22 you know, I have a big DropBox folder with many, many</p> <p>23 versions of documents; and then I made up a folder with</p> <p>24 the final that I had sent to her, to be able to keep</p> <p>25 track. So she was the interface, basically, with me in</p>

<p>114</p> <p>1 the -- this whole tenure process.</p> <p>2 Q. And do you remember -- do you remember</p> <p>3 approximately when it was like, "It's done," like, where</p> <p>4 the dossier is final; all the edits are finished?</p> <p>5 A. So there -- we had initial deadlines; and I</p> <p>6 was very keen on getting everything done early before my</p> <p>7 daughter was born because I was expecting my daughter,</p> <p>8 my second child, on June 30 of that summer of 2019. And</p> <p>9 she actually was born on June 13, two and a half weeks</p> <p>10 early. And so I had given myself a deadline to be done</p> <p>11 with all the documents by late May.</p> <p>12 And I asked Jilda -- I said, "You know, I</p> <p>13 understand these deadlines are later; but would you</p> <p>14 please work with me to ensure that my documents are in</p> <p>15 order by the end of May?" And I believe it stretched</p> <p>16 out into the beginning of June. And so she worked with</p> <p>17 me to get that finalized by the end of June [sic.] And</p> <p>18 at some point I said, "Okay. Is that all? Is that all?</p> <p>19 Is that all?"</p> <p>20 And then she said, "Okay. You are all</p> <p>21 set and done. We have everything you need." But I</p> <p>22 guess that was not the final, final. I think that's</p> <p>23 kind of what you're asking, because there were inquiries</p> <p>24 later in the summer that we discussed earlier today.</p> <p>25 Q. Okay. And do you remember when the Budget</p>	<p>116</p> <p>1 process before her assessment letter came out?</p> <p>2 A. I never spoke directly to her, but</p> <p>3 Professor Tewfik spoke to her about my case in the</p> <p>4 spring prior to my officially starting the tenure</p> <p>5 process.</p> <p>6 Q. And what did Professor Tewfik relay to you</p> <p>7 about his conversation with her, if you can remember?</p> <p>8 A. Yeah. To the best of my recollection, he said</p> <p>9 that she had asked about certain publications on my CV</p> <p>10 and she asked him whether they're highly competitive or</p> <p>11 prestigious or something to that effect. And then she</p> <p>12 asked for an additional document to these summary sheets</p> <p>13 that I mentioned, which was a document dedicated to</p> <p>14 funding. So I had to then go and write a detailed</p> <p>15 document on funding. And he said to me that basically</p> <p>16 she kind of questioned the publications and she -- and</p> <p>17 he told me that she was neutral.</p> <p>18 Q. Neutral --</p> <p>19 A. And I was -- he said, "The Dean is neutral on</p> <p>20 your case." And I didn't know what to make of it. I</p> <p>21 mean, it was the first -- it was the first such</p> <p>22 discussion and occurrence in my life, in my career. So</p> <p>23 I didn't even know what to make of it. And my</p> <p>24 understanding was that she wasn't familiar with my</p> <p>25 publication venue and that once she understands the</p>
<p>115</p> <p>1 Council assembled to vote on the actual merits of the</p> <p>2 promotion case?</p> <p>3 MR. SCHMIDT: Objection, form.</p> <p>4 A. I believe it was September of 2018. I don't</p> <p>5 recall the exact date.</p> <p>6 Q. (BY MR. DOWER) And do you recall how much</p> <p>7 time went by between the Budget Council vote and then</p> <p>8 the College/School Advisory Committee?</p> <p>9 A. I believe -- and I don't think I was informed</p> <p>10 of that during the process. To me, at the time it was</p> <p>11 like a black box, where I just -- I was told about the</p> <p>12 department vote because the Chair wrote me about it. He</p> <p>13 said, "It's a strong vote. And, you know, I'll need</p> <p>14 your assistance with my promotion letter for you." But</p> <p>15 from then on it became a black box, and I was expecting</p> <p>16 to only learn the outcome in February when the</p> <p>17 President's Committee's done; but I, sadly, learned, you</p> <p>18 know, the negative outcome earlier than February.</p> <p>19 Q. Well, let's -- let's talk about that. I'm</p> <p>20 assuming from the context, by "negative outcome," you</p> <p>21 mean Dean Wood's assessment of your tenure case? Is</p> <p>22 that what you're referring to?</p> <p>23 A. Yes.</p> <p>24 Q. So before we talk about her assessment letter,</p> <p>25 did you ever speak to her at any point during the</p>	<p>117</p> <p>1 nature, that, you know, they're high-quality</p> <p>2 publications, then, that would -- she would become</p> <p>3 positive.</p> <p>4 Q. And where did you form that opinion, right --</p> <p>5 I guess, how did you inform that opinion?</p> <p>6 A. It was just my understanding from my</p> <p>7 conversation with the Chair regarding what concerns she</p> <p>8 had brought up in that conversation.</p> <p>9 Q. Did you -- prior to Dean Wood's assessment</p> <p>10 letter coming out, did you get any sort of advanced</p> <p>11 notice that it might not be favorable?</p> <p>12 A. No, I never did. It came as a huge shock.</p> <p>13 Q. How did you -- how did you learn that she had</p> <p>14 written a letter that was -- that said that she didn't</p> <p>15 believe your performance met expectations for early</p> <p>16 promotion?</p> <p>17 A. I'm sorry. I'm starting to tear up.</p> <p>18 Q. No, that's fine; and if you need to take a</p> <p>19 moment, please feel free.</p> <p>20 A. I had a voice conversation with</p> <p>21 Professor Tewfik over the phone. He e-mailed me right</p> <p>22 after Thanksgiving; and I actually remember that because</p> <p>23 we had just had a really, really nice family</p> <p>24 Thanksgiving with my in-laws, with Jimmy's parents. And</p> <p>25 his mom had -- his mom, who does energy healing and card</p>

<p>118</p> <p>1 reading -- card reading and things like that, just for  2 fun, like, I had asked her to do a card reading for me;  3 and she said, "Oh, your daughter, Elitza, is here to  4 help you heal from a loss." And I was very puzzled  5 because I was really, like, content with my life until  6 that moment. And I -- and I thought that it meant the  7 loss of my mom, who had passed away many years prior, in  8 2008, and I kind of took it like that; and I didn't  9 think much of it.</p> <p>10 And shortly after -- right after  11 Thanksgiving, I received an e-mail from Chair Tewfik  12 saying, "I need to speak with you urgently. What's a  13 good time?" And I said -- I think he said Tuesday or  14 Wednesday of that week following Thanksgiving.</p> <p>15 And I said, "Well, I'm available both  16 days. Wednesday would be preferable, but I'm available  17 both those days."</p> <p>18 And he said, "Okay. I'll call you on  19 Tuesday at 9:00 a.m.," or something like that. I'm not  20 sure if it was 9:00 a.m. or what time.</p> <p>21 And so we had a phone conversation. And  22 in that conversation he said, "I'm sorry. You know, I  23 have bad news for you. The Dean has written a negative  24 letter for you. We have to -- we have to find out what  25 it is. I haven't seen the letter. You'll need to speak</p>	<p>120</p> <p>1 role -- you mean Sanjay?  2 Q. Yeah.  3 A. It was specifically because of his being a  4 member of the P&amp;T Committee. From what I understand,  5 the P&amp;T Committee had to swear or legally take an oath  6 or something that they would not disclose P&amp;T  7 discussions, something like that. It was my  8 understanding, at least.</p> <p>9 Q. Have you -- or did you speak to Dean Wood  10 about the substance of her letter after it came out?  11 A. No, I didn't.</p> <p>12 Q. Have you ever spoken to Dean Wood about her  13 recommendation?  14 A. No, I haven't.</p> <p>15 Q. I'm going to upload another document, one,  16 thankfully, considerably smaller than the last one.  17 This has already been marked as Exhibit 7.  18 (Exhibit 7 discussed.)</p> <p>19 A. I have it open.</p> <p>20 Q. (BY MR. DOWER) Okay. So it's my  21 understanding that this is a document that you drafted  22 as a rebuttal to Dean Wood's assessment; is that  23 correct?  24 A. Yes, yes.  25 Q. Do you remember what -- what led you to draft</p>
<p>119</p> <p>1 to Carmen Shockley to see if you can get hold of the  2 letter so we can see how to address it."</p> <p>3 Q. And so what did you do next?  4 A. I reached out to Carmen Shockley. I had a  5 phone conversation with her; and I asked her, "What is  6 the process for obtaining the Dean's letter?"</p> <p>7 And she said, "Just e-mail me and I'll --  8 just e-mail me; and I'll e-mail it back to you as an  9 attachment," which she did.</p> <p>10 So I immediately forwarded the letter to  11 Ahmed and to my official mentor, Constantine Caramanis.  12 I don't recall if I forwarded it to anyone else. I may  13 have forwarded it to Brian Evans. Ahmed at that time  14 had mentioned that Brian Evans was working the CCAFR  15 Committee. So I thought he may be able to advise me on  16 next steps, I guess.</p> <p>17 I also reached out to Sanjay Shakkottai;  18 but he said to me, "I'm sorry. Since I served on the  19 P&amp;T Committee, I cannot further -- I cannot legally --  20 I'm legally bound; and I cannot discuss anything with  21 you. So please reach out to Constantine." So that's  22 what I did.</p> <p>23 Q. Is that because he presented your case, or  24 do you know?  25 A. No. It was specifically because of his</p>	<p>121</p> <p>1 this document? I mean, obviously, her assessment; but  2 did you -- were you advised that this was a good idea  3 or -- so what's the origin of this?  4 A. Chair Tewfik had told me that I can do a  5 rebuttal. I believe Carmen Shockley also told me that,  6 and she told me that I had a deadline of December 15 to  7 submit a rebuttal that would correct any actual,  8 mistakes and so on, and that it would become a part of  9 my promotion file; and it would be considered by the  10 President for the final decision.</p> <p>11 Q. And so did you -- and I guess you drafted  12 this between when the Dean's letter came out and  13 December 15th, then?  14 A. Yes.</p> <p>15 MR. SCHMIDT: Ben, I'll mention that if  16 in the next ten minutes or so we could take a break, I'd  17 appreciate that.</p> <p>18 MR. DOWER: Yeah.</p> <p>19 MR. SCHMIDT: Whatever's a good time for  20 you.</p> <p>21 MR. DOWER: No, I appreciate that. Why  22 don't we just take the break now? That's fine with me.  23 Let's just break now.</p> <p>24 MR. SCHMIDT: All right. Thank you so  25 much.</p>

<p>122</p> <p>1 THE REPORTER: We're going off the record 2 at 2:06 p.m. 3 (Off the record from 2:06 to 2:15 p.m.) 4 THE REPORTER: We're going back on the 5 record at 2:15 p.m. 6 Q (BY MR. DOWER) So after you submitted the 7 rebuttal to Dean Wood's assessment, what was the next 8 thing you heard as far as the tenure process was 9 concerned? 10 A. The next official thing was the president's 11 decision, which I heard around mid-February 2019. 12 Q. And you said the next official thing. So I'd 13 better ask: Was there anything unofficial that happened 14 between those things as far as the tenure process was 15 concerned? 16 A. Sure. I had a conversation with Sanjay 17 Shakkottai where I guess he sort of gave me the 18 opportunity to vent. He knew it was really hard on me. 19 He didn't really say much because he had already told me 20 that he cannot, I guess, say stuff, being legally bound 21 from his role on the P&amp;T Committee. So it was more him 22 letting me vent. 23 And then I reached out to him around 24 January. I believe he told me, also, that there would 25 be time before the President's decision where the</p>	<p>124</p> <p>1 anybody else myself. 2 Q. Did you reach out to anyone else outside the 3 university? 4 A. Yes, I did. 5 Q. Who did you reach out to outside of UT? 6 A. I reached out to two female professors to ask 7 them about gender bias in teaching evaluations and 8 pregnancy bias in teaching evaluations; and those were 9 Professor Amy Grave, I believe, and Professor Andrea 10 Liu. I also reached out to a personal friend of mine 11 who was a professor of economics at Texas A&amp;M, also, to 12 ask her what her experience had been with teaching 13 evaluations while she was pregnant; and she got back to 14 me and told me that she had noticed a dip in her 15 teaching evaluations both times she had been pregnant. 16 Q. Let me go ahead and upload another exhibit. I 17 think we're on 82 now. 18 (Exhibit 82 marked.) 19 THE REPORTER: And may I ask for a 20 spelling while you're doing that? 21 MR. DOWER: It's fine with me, Debbie, If 22 you're asking me; maybe you're not, but... 23 THE REPORTER: Yes. 24 MR. DOWER: Okay. Yes, please. 25 THE REPORTER: I think you said one of</p>
<p>123</p> <p>1 Department can intervene or somehow kind of submit more 2 support in my behalf. And at some point I e-mailed him 3 and I asked, "Do you think the Department can prepare a 4 petition on my behalf, just to show there's strong 5 support for my case?" 6 And I -- at that point he said, well -- 7 I don't remember exactly what he said -- but it was 8 something to the effect that he didn't think a 9 petition -- not he, but he had reached out to a couple 10 other colleagues and they didn't think that a petition 11 would be appropriate, but not to worry because there 12 should be time where, before the President makes the 13 official decision, there would be room for the 14 Department somehow to further advocate on -- on my 15 behalf. 16 Q. And I'm sorry. I lost track of the speaker. 17 Was that Sanjay Shakkottai who said that? 18 A. Yes. 19 Q. Okay. And did you e-mail anyone in the 20 department to see whether they'd be willing to put 21 together sort of a petition or a statement on your 22 behalf? 23 A. I believe I only e-mailed Sanjay and he had -- 24 he reached out to, I think, a couple other people, not 25 many. So I didn't -- I don't think I reached out to</p>	<p>125</p> <p>1 the professors you reached out to, her first name was 2 Andrea. What was the last name? 3 THE WITNESS: Liu, L-I-U. 4 THE REPORTER: Thank you. 5 THE WITNESS: And I may be off on some of 6 these names. 7 MR. DOWER: Well, the document that I'm 8 uploading may be one of the people you were just 9 mentioning, in which case the document will have the 10 name spelling; but maybe not. Oh, wait. No, this is a 11 UT Austin person. So, no, this would not be one of the 12 outside-of-UT people. 13 A. Okay. I have the -- one -- the -- yeah. 14 Q. (BY MR. DOWER) Okay. So if we start at the 15 bottom, this was an e-mail you sent on November 27th, 16 2018. I'm referring here to the first line 17 chronologically, which is, you know, the bottom one in 18 the thread. Do you see that? 19 A. Yes. 20 Q. Okay. And so this is -- this is an e-mail you 21 sent to a faculty member, it looks like, in the -- at UT 22 Austin in the Civil, Architectural and Environmental 23 Engineering Department? 24 A. Yes. 25 Q. And you introduce yourself and explain that</p>

<p>126</p> <p>1 you've not met; and you say, "I'm trying to gather some 2 data on female faculty at UT who have had -- who have 3 had children during their faculty careers and see if it 4 had an effect on their teaching evaluations. Would you 5 mind sharing with me if you had children and if you 6 experienced any dip in your teaching evaluations during 7 or after your pregnancy/pregnancies?" Other than a few 8 stutters, did I read that correctly? 9 A. Yes. 10 Q. I'm curious. If you hadn't met her, how did 11 you identify -- I'm going to butcher the name -- 12 Dr. Leite as someone that you might ask this question? 13 A. I got her name from my Chair, from 14 Professor Tewfik. 15 Q. Oh, okay. What did -- what did he -- 16 A. I had -- 17 Q. -- say about her? 18 A. Yeah, I'm sorry to interrupt you. 19 In one of the conversations we had after 20 we read the Dean's assessment and see that teaching 21 scores were a prominent reason for her decision not to 22 promote me, I remembered a conversation I had had with 23 one of the UT faculty members that pregnancy may have an 24 effect on teaching scores, where women who are pregnant 25 may get lower teaching scores themselves, their own</p>	<p>128</p> <p>1 received news of tenure. She was born April 2016. I 2 was on Modified Instructional Duty (MID) in Fall 2016 3 and so went back to teaching when she was nine months 4 old. Honestly, I did not see any difference in my 5 teaching evals. The only rough part was restarting with 6 a two-course semester. It would have been a smoother 7 transition if I'd gone from zero (MID semester) to one 8 course/semester, then back to two." Did I read those 9 sentences correctly? 10 A. Yes. 11 Q. And so then you respond and you say, I -- 12 again, I shouldn't paraphrase. "Many thanks for sharing 13 your experience and thoughts on the issue. I am not yet 14 doing a full-fledged study, though it may be worth 15 pursuing in the future. I do for sure agree that the 16 equal modified instructional duty for female and male 17 faculty that is meant to not introduce gender 18 discrimination, actually introduces one. And great to 19 know that other schools have actually taken this into 20 account and have tried to balance things better." First 21 of all, just for the record, did I read that part 22 correctly? 23 A. Yes. 24 Q. So let me ask you: When you say that the 25 Modified Instructional Duty for female and male faculty</p>
<p>127</p> <p>1 trends, than if they were not pregnant. 2 And so I shared that with Ahmed. And 3 because the Dean, you know, made the fairly key point of 4 my lowest teaching score of 3.7; and that occurred while 5 I was pregnant. And so I just shared that with Ahmed; 6 and Ahmed said, "Well, why don't you reach out to some 7 women and ask them if they experienced it? Two women 8 that I can think of are Christine Julien from our 9 department and this lady from the Civil Engineering 10 Department, Fernanda Leite." So he gave me the name and 11 I looked her up and I e-mailed -- I sent her an e-mail. 12 Q. Did you also reach out to Dr. Julien? 13 A. Yes, I did. I sent an e-mail to her. 14 Q. Do you remember what she said in response; or 15 did she respond -- 16 A. I believe -- 17 Q. -- for that matter? 18 Go ahead. 19 A. I believe Christine told me she had never 20 heard of this before and that she didn't think she had 21 experienced that herself. 22 Q. Okay. And so Dr. Leite responds and says that 23 she was on Modified Instructional Duty -- well, you know 24 what? I shouldn't paraphrase this. I should just -- so 25 it says that, "My daughter was born shortly after I</p>	<p>129</p> <p>1 that is meant to not introduce gender discrimination 2 actually introduces one, what are you referring to 3 there? 4 A. I'm referring to the fact that it makes 5 the -- it's -- rather than levelling the playing field, 6 it makes -- it does the opposite. 7 Q. And how so? 8 A. By the fact that women who give birth go 9 through a lot of physical, mental, hormonal, emotional, 10 et cetera, changes that men do not go through simply 11 because they do not give the physical birth of a child. 12 Women who give birth, for one, you know, need to be in 13 the hospital giving the birth; but then for a period 14 leading up to and then after, have -- very essentially, 15 you know, similarly to -- you know, they're partially 16 disabled. They have to be -- let me speak for myself 17 because every woman is different; and we can, of course, 18 talk about the average case. 19 But, you know, I had to be on bedrest. I 20 was bleeding for a long period of time. It was an 21 actual physical wound that had to be healed. I was not 22 sleeping. I was nursing my child, my baby. I remember 23 the first two weeks after the pregnancy were incredibly 24 physically strenuous because for the first two weeks I 25 was told that I have to force the baby to nurse. The</p>



<p style="text-align: right;">130</p> <p>1 baby wouldn't naturally nurse, and they basically may  2 not wake up if they are not given proper nutrition.  3 So I had to make the baby eat. I had to  4 kind of force feed the baby. I had to force -- wake  5 them up from sleep, and I had to do that every three  6 hours. And what I learned was that the actual feeding  7 from kind of waking up the baby and preparing to breast  8 feed and so on, until the time they are done taking  9 those few drops of breast milk, takes an hour.  10 And so we were on a -- you know, on a  11 two/one schedule where it's an hour of nursing, two  12 hours off; one hour of nursing, two hours off. And  13 this goes on 24/7 without any break. I need to sleep.  14 I need to get that sleep in the -- you know, in the two  15 hours between every... And that was incredibly,  16 incredibly physically strenuous.  17 It got a little bit easier over time;  18 but, you know, in the process you get -- I got sore  19 nipples where it was terribly painful from the nursing.  20 So I had to kind of balance recovering my nipples with  21 breastfeeding the baby. It was just so many things.  22 The sleep deprivation was incredible, just exhaustion  23 from the whole process was incredible.  24 My husband always wanted to be very  25 helpful and he would help with whatever he could, with</p>	<p style="text-align: right;">132</p> <p>1 semester discriminate against women?  2 A. So it's a basically neutral policy which, on  3 the surface, seems to be -- to seek out equality for men  4 and women; but it does the opposite. And that may be  5 better understood by an analogy. So let's take the  6 analogy of handicapped people for whom now, you know, by  7 law, there have to be ramps everywhere. And let's just  8 take a handicapped person and a healthy, non-handicapped  9 person. You know, by "handicapped," I mean, like,  10 somebody who has no legs and cannot walk upstairs.  11 So let's imagine that they are both told,  12 you know, "Here is equality for you. You have to both  13 go up this flight of stairs. The rules are equal for  14 both of you." So this is equality. "Is it fair" is  15 another question, right? So the question of equity is  16 quite different.  17 So it's quite similar with the same idea,  18 providing essentially equal time off of teaching for  19 female and male faculty. The female faculty has to  20 actually -- they need the time to physically heal from  21 the process of birth and recover as best they can to be  22 able to, you know, come to a point where they are  23 actually able to work. Whereas, for the male faculty,  24 it is a much less strenuous. I mean, they don't need to  25 go through physical recovery except for some sleep</p>
<p style="text-align: right;">131</p> <p>1 diaper changes and so on; but that was not enough. Even  2 if I didn't do anything else but just nurse, that was  3 incredibly, incredibly physically tolling and not just  4 physically, but mentally and emotionally. Your whole  5 being is sort of engaged, and my brain -- I don't even  6 know. I don't know that I really had time to think  7 about what my brain -- what the state of my brain was.  8 You know, maybe one could say it was like mashed  9 potatoes.  10 But I know for sure that my husband  11 didn't have that. He was able to focus on things. He  12 was able to read e-mails, and he was able to work during  13 the time. Whereas, for me, it was really like survive.  14 I was on survival mode without anything else, just  15 taking care of the baby and myself.  16 Q. Well, first of all, thank you for sharing  17 that; and I know that was a little bit personal and  18 probably not comfortable sharing with a complete  19 stranger. So I appreciate that, and I just want to  20 acknowledge that.  21 Let me follow up on one piece of this,  22 which is that the Modified Instructional Duty policy  23 discriminates; and I understand what -- you know, I  24 understand your testimony. I guess my question is: How  25 does the policy of allowing people not to teach for a</p>	<p style="text-align: right;">133</p> <p>1 deprivation and some time with the baby and time  2 changing diapers to whatever extent they do it; but  3 they're able -- my husband was able to work the entire  4 time I was taking to just recover from the pregnancy and  5 caring for the baby.  6 And I know for male faculty -- in fact,  7 one friend of mine told me, a professor at Columbia  8 university, he said for -- "Everyone knows -- everyone  9 knows that the" -- how did he call it -- Parental Leave,  10 because at Columbia it's a leave, not MID. "Everyone  11 knows the Parental Leave semester is for research only,"  12 as in, they should not be touched for teaching or  13 service or anything else. And so he just said it as:  14 Of course, duh, it's for research only.  15 And my -- at UT my experience has been  16 different. I don't know. I haven't really had the  17 conversation with other male colleagues; but I assume  18 that all male colleagues who had a baby researched,  19 never stopped doing research in the semester their baby  20 was born or the semester they took an MID. And I would  21 guess that with other -- without other distractions of  22 teaching, they actually were able to focus and do more  23 research, while the female faculty were just trying to  24 survive and get back to a point where they're able to  25 regain the research momentum and carry on.</p>



<p style="text-align: right;">134</p> <p>1 Q. And just to be clear, you don't have any 2 personal knowledge about what male faculty do on, you 3 know, paternity leave at UT, correct? 4 A. I have not discussed that very question with 5 any of my male faculty, but I could see just from 6 department e-mail exchange that they are active in the 7 semester they have babies. 8 Q. So you're responding to department e-mails; is 9 that what you're meaning? 10 A. Yes, yeah; but that's something that I would 11 love to know. I mean, that's one thing I would love to 12 know is how much male faculty traveled for professional 13 work meetings right after having a baby. 14 Q. So I guess one question I might ask is: 15 What's the solution? Should UT abolish paternity leave? 16 MR. SCHMIDT: Objection, form. 17 A. Definitely not. 18 Q. (BY MR. DOWER) Okay. 19 A. Definitely not. So I think it's really 20 important and incredibly positive for men to get MID and 21 for men in general -- there is a trend, I think, in the 22 whole of U.S. which is really for men to receive 23 Parental Leave. That's incredibly positive, but how 24 much a man gets versus a woman is a different story. 25 For example, if you allow me to read the second half of</p>	<p style="text-align: right;">136</p> <p>1 balance things better." 2 Q. Okay. So it sounds like you're suggesting 3 that one way that universities could avoid the -- the 4 impact that you're hypothesizing where women, mostly 5 because of physiological reasons, are not able to work 6 while they're out on leave and men are, would be to 7 adopt different standards for men and women in terms of, 8 like, leave and things like that. Is that fair? 9 A. Correct, yeah. I feel that -- I strongly feel 10 that men should get MID. I think that's been really 11 positive in the overall culture in the U.S. for men to 12 start balancing the baby care and household, you know, 13 responsibilities more with women. I think men have 14 overall increased spans of responsibility and duty and 15 desire. I think many men have the desire to be more 16 closely involved with bringing up their babies. So I 17 think MID is very critical to be given to men as well; 18 but women having two MIDs versus men having one, I think 19 would be an excellent modification to make the playing 20 field more level, like it's intended to. 21 Q. All right. I think we're done with this 22 document, so you can close out of that. 23 Okay. So then shifting gears back to 24 our -- you know, sort of the timeline, let's go ahead 25 and talk about how -- how did you first learn that</p>
<p style="text-align: right;">135</p> <p>1 the e-mail from Fernanda, I think there's a really good 2 suggestion there; and this is what I was responding 3 from. 4 Q. Okay. So she says, "I know of peer schools 5 that women get two semesters of Modified Instructional 6 Duty and men get one." Is that what you're referring 7 to? 8 A. Yeah, may I -- may I read the last couple from 9 where you left off? 10 Q. Sure, sure. Go ahead. 11 A. Yeah. So she says, "The only rough part was 12 restarting with a two-course semester. It would have 13 been a smoother transition if I had gone from zero to 14 one, then back up to two. I feel like women tend to 15 have a rougher transition back than male colleagues who 16 have kids and also take MID. I know of peer schools 17 that women get two semesters of MID and men get one, 18 which sounds much more reasonable if you actually have 19 to give birth and breast feed/pump." 20 And I wrote back to her in response to 21 that, "I do for sure agree that the equal Modified 22 Instructional Duty for female and male faculty that is 23 meant to not introduce gender discrimination, actually 24 introduces one. And great to know that other schools 25 have actually taken this into account and have tried to</p>	<p style="text-align: right;">137</p> <p>1 President Fennis had decided not to grant you tenure in 2 February 2019? And I recognize that this may be an 3 emotional topic -- and I apologize -- but, you know, 4 it's central to the case, so we've got to talk about it. 5 A. I learned -- yeah, no problem. I thank you. 6 I learned in a phone conversation with 7 Chair Tewfik. 8 Q. Can you relay that, what that conversation 9 was, just what you can recall of it? I know it's been a 10 couple of years. 11 A. I recall that I was at the airport, flying 12 back from a conference. I had been to a conference in 13 San Diego, giving a presentation; and I was flying back 14 that Saturday morning, whatever the date happened to be, 15 I think around February 16 or 17. And that Saturday 16 morning the Chair had alerted me. Had he known the 17 President's decision either the night before or that 18 same morning. I don't remember. And we spoke basically 19 Saturday morning, and it was a very short conversation. 20 And he just said, "The President has decided not to 21 promote you. The President's decision is not to promote 22 you. I'm very sorry about that." 23 And I said, "Oh, I'm disheartened to hear 24 that." 25 Q. At that point had you already -- were you</p>

<p>138</p> <p>1 already aware about the CCAFR process -- I should  2 probably define that acronym. I know you know what I'm  3 talking about, but let's see. It's the Committee of  4 Council on Academic Freedom and Responsibility, so  5 CCAFR. I guess did you already know that there was a  6 possibility to -- to submit a letter to CCAFR, claiming  7 procedural violations?  8 A. No.  9 Q. Okay. When did you learn that that was, you  10 know, something that was a potential option after  11 President Fennis had communicated his decision?  12 A. After I had learned of the decision. I kept  13 hoping the decision would be positive. I thought -- and  14 multiple people had told me that my rebuttal had been  15 very strong; and I thought that with the facts and the  16 logic presented in my rebuttal and all the detail, that  17 the President's Committee would take it into account and  18 would overturn -- well, I had hoped that the Dean  19 herself would change the recommendation to the  20 President; and I had hoped that the President's decision  21 would be positive. And I had not taken any steps to --  22 further to prepare in case the decision had been  23 negative. So it's only after I learned that it was  24 negative that I took steps to inform myself of what I  25 could do.</p>	<p>140</p> <p>1 (Exhibit 83 marked.)  2 Q (BY MR. DOWER) Okay. Were you able to  3 download these?  4 A. Yes, I'm saving the second one.  5 Q. Yeah, take your time.  6 A. I have both now.  7 Q. Okay. Let's -- I guess let's start with the  8 CCAFR letter, which means that that one will be  9 Exhibit 83; and the Request for Reconsideration will be  10 Exhibit 84.  11 So -- oh, shoot I uploaded the wrong --  12 wait. Did I upload the wrong one? Hang on. Sorry.  13 Let me see. Did I upload the -- no, I -- no, I didn't.  14 Okay.  15 Okay. So the Nikolova letter to CCAFR is  16 dated March 15th, 2019 [sic], correct?  17 A. Yes.  18 Q. Okay. And so this is the letter you put  19 together to submit to CCAFR in an attempt to -- to  20 appeal the denial of your tenure and promotion; is that  21 right?  22 MR. NOTZON: I think you said March 15th;  23 but it's the March 25th, right?  24 MR. DOWER: Oh, if I misspoke, I  25 apologize. Yeah. Sorry. March 25th. Thanks -- thank</p>
<p>139</p> <p>1 Q. What steps did you take to inform yourself?  2 A. So I don't remember if people -- if other  3 people reached out to me or if Chair Tewfik told me or  4 if I reached out. I don't remember who initiated; but,  5 basically, I was -- I started a dialogue with professor  6 Brent Evans, who was the Chair of CCAFR; and he was very  7 knowledgeable. And he informed me there were four -- I  8 believe he said four different processes, two of which  9 were submitting a request to the CCAFR committee; and  10 another was submitting a final argument document to the  11 President. The other two, I think, one was submitting a  12 grievance and maybe a grievance with -- I don't remember  13 the other two. I just felt that out of the four, the  14 two that I opted for were the more likely to help.  15 Q. And so -- well, I guess, since we're talking  16 about it, let me just go ahead and upload both your  17 letter to CCAFR and the Request for Reconsideration. If  18 you haven't noticed, I'm a big fan of showing documents  19 if we're going to talk about them. I just think that  20 that's fair, so.  21 All right. Let me see here.  22 A. I'm downloading.  23 Q. Yeah, yeah, take your time. I wanted to make  24 sure neither of these had exhibit stamps already, and I  25 don't believe they do.</p>	<p>141</p> <p>1 you, Robert.  2 Q (BY MR. DOWER) Yeah. March 25th, correct?  3 A. Yes.  4 Q. Okay. Can you tell me, when you were  5 preparing this document, who did you work with in  6 drafting this?  7 A. I --  8 MR. SCHMIDT: I'm going to jump in  9 real quickly. She can answer this question, but should  10 not --  11 MR. DOWER: Oh, not attorneys. I'm not  12 asking about attorneys.  13 MR. SCHMIDT: Yeah, it's going to come  14 out that I think she worked with an attorney on this.  15 MR. DOWER: Oh, I didn't know that.  16 Sorry.  17 MR. SCHMIDT: That's all right. And I'm  18 just going to ask her not to reveal attorney-client  19 privilege.  20 MR. DOWER: Okay.  21 Q. (BY MR. DOWER) So without disclosing any  22 communications you may have had with any attorneys, who  23 did you work with in preparing this?  24 A. I -- I don't think that anyone helped me --  25 anyone from my colleagues at UT helped me with this</p>

<p style="text-align: right;">142</p> <p>1 draft. I had hoped that Brian Evans would help me  2 because he had been very helpful during the rebuttal,  3 during -- preparing my rebuttal, I had sent multiple  4 versions and he had commented on them and helped with  5 language and so on. And so I had kind of hoped for a  6 similar exchange with him here, but I think he had  7 become really busy.  8 And I, myself, had become very busy  9 because I was on a very short deadline. There was a  10 huge amount of material to sort of assemble and so on.  11 And so I don't -- I don't recall anyone helping me on  12 the draft, per se. I did, however, have some discussion  13 with Ahmed Tewfik, with Professor Tewfik, and possibly  14 with -- and with Brian Evans, outside of these  15 documents, as I was preparing it.  16 I think Professor Tewfik had advised me  17 that in order to appeal this, in order to have a strong  18 appeal, I needed to find a comparator in the School of  19 Engineering that has a worse record than mine that had  20 attained tenure recently. And I had managed to find  21 such a comparator. That was Dr. Zoya Heidari. And I  22 shared that both with Brian and with Ahmed, and they  23 both thought it was a perfect case to compare.  24 Q. And Zoya Heidari is in the -- is it the  25 Geosciences Department?</p>	<p style="text-align: right;">144</p> <p>1 Q. I want to sort of take a step back and talk  2 big picture. In -- in this lawsuit you are suing UT for  3 discriminating against you with regards to the tenure  4 decision that we've been just talking about, correct?  5 A. Correct.  6 Q. And, specifically, you're suing UT for both  7 sex and pregnancy discrimination, correct?  8 A. Correct.  9 Q. And so part of my job is making sure that I  10 understand, you know, what -- what -- where you're  11 coming from, for lack of a better word, with regards to  12 these accusations. And so for the tenure decision  13 specifically, which -- which UT employees are you -- do  14 you believe acted with intent to discriminate against  15 you based on your sex?  16 MR. SCHMIDT: Objection, form.  17 A. I do not understand the phrasing of "intent to  18 discriminate." I feel that I cannot comment on the  19 intent. Does that make sense?  20 Q. (BY MR. DOWER) Okay. Well, let me -- yeah,  21 let me try to explain myself a little bit better or  22 break this down. In -- one of the allegations in this  23 case is that there are facially neutral policies that  24 have the effect of discriminating, such as what we were  25 just talking about a little while ago, Modified</p>
<p style="text-align: right;">143</p> <p>1 A. She's in Petroleum Engineering.  2 Q. Thank you. Petroleum Engineering.  3 Okay. And this -- this is going to sound  4 obvious; but Zoya Heidari is a woman, correct?  5 A. Correct.  6 (Exhibit 84 marked.)  7 Q. (BY MR. DOWER) And then referring now to  8 Exhibit 84, the Request for Reconsideration, did -- so  9 this was addressed to President Fenvis directly,  10 correct?  11 A. Correct.  12 Q. And did you have any understanding at the  13 time that only a terminal appointment could -- could --  14 would -- let me start over.  15 Did you have an understanding at the time  16 that a Request for Reconsideration of a tenure decision  17 was only available if it was a terminal appointment?  18 MR. SCHMIDT: Objection, form.  19 A. No.  20 Q. (BY MR. DOWER) Okay.  21 A. Brian Evans had advised me on the contrary.  22 Q. Okay. So Brian Evans had advised you that you  23 could submit a Request for Reconsideration in your  24 situation?  25 A. Yes.</p>	<p style="text-align: right;">145</p> <p>1 Instructional Duty; it's facially neutral, but the  2 burden falls more heavily on women. Do you remember we  3 were just talking about that about 30 minutes ago?  4 A. Yes.  5 Q. Right. And so what I'm trying to do when I  6 say "intent to discriminate," I'm trying to distinguish  7 from that part of the case, to hone in on the -- the  8 allegation that UT Austin acted with intent to  9 discriminate against you based on sex with regards to  10 the tenure decision; but maybe I should take a step  11 back. I mean, do you believe that the decision not to  12 give you tenure in 2019 was motivated in whole or in  13 part by you being a woman?  14 A. Yes.  15 Q. Okay. And so what I'm trying to ask is: With  16 regards to that, do you have specific people at UT  17 Austin at the time that you believe acted with that  18 intent?  19 MR. SCHMIDT: Objection, form.  20 A. If I may rephrase, what I feel happened is  21 that there are people who discriminated against me on  22 the basis of my gender and pregnancy, yes.  23 Q. (BY MR. DOWER) Okay. And so with regards to  24 the tenure decision, who do you believe -- who are those  25 people is what I'm trying to ask.</p>

<p style="text-align: right;">146</p> <p>1 A. So some of the people, I believe, are</p> <p>2 Professor Ahmed Tewfik, Dean Sharon Wood, and</p> <p>3 President Fenvis, possibly the president's committee.</p> <p>4 Q. And are those -- is that the same people if we</p> <p>5 said pregnancy instead of sex?</p> <p>6 MR. SCHMIDT: Objection, form.</p> <p>7 Q. (BY MR. DOWER) I'm just trying to figure out</p> <p>8 is the list --</p> <p>9 A. The same people -- same people would come to</p> <p>10 mind, yes.</p> <p>11 Q. And so for Professor Tewfik, why do you</p> <p>12 believe that your -- that his behavior with regards to</p> <p>13 your tenure decision was motivated by sex?</p> <p>14 A. So I -- I can list, I guess, several examples</p> <p>15 that come to mind at the moment; and I may make a chunk.</p> <p>16 But one is I feel that he kept changing metrics for</p> <p>17 evaluating me. Another is that -- if I may ask for</p> <p>18 clarification, are we speaking about my knowledge as of</p> <p>19 right now or my knowledge back then, when I first</p> <p>20 submitted the complaint?</p> <p>21 Q. Let's say now. Let's just say now.</p> <p>22 A. So in his deposition from March of this year,</p> <p>23 he stated that I had initially been excellent when I was</p> <p>24 hired -- and I'm paraphrasing -- and that afterwards, I</p> <p>25 had essentially stopped being excellent, something to</p>	<p style="text-align: right;">148</p> <p>1 of on paper. And another low teaching score was because</p> <p>2 he had been having visa issues and missed a few</p> <p>3 lectures; he had not been able to come back to the U.S.</p> <p>4 For me, the teaching section, which had</p> <p>5 higher worth teaching scores, alternated -- and this is</p> <p>6 something that only -- I saw only now; I hadn't actually</p> <p>7 noticed it earlier. It kind of alternated positive,</p> <p>8 negative. For the positive, he always gave a negative.</p> <p>9 So it was sort of -- kind of -- it was very meek.</p> <p>10 And, for example, he gave -- he wrote</p> <p>11 about one line of positive student comments; and it was</p> <p>12 followed by two lines of negative student comments as</p> <p>13 examples. And this is to contrast with what I know from</p> <p>14 my rebuttal in reviewing the student comments that the</p> <p>15 majority of the student comments I had received were</p> <p>16 positive; but he did not reflect that in his statement.</p> <p>17 Rather than writing maybe two lines of positive and one</p> <p>18 line of negative, he swapped that around. So he chose</p> <p>19 to emphasize the negative more, much more strongly.</p> <p>20 In his -- and he never, for the score of</p> <p>21 3.7 that I received, he did not offer the very major</p> <p>22 extenuating circumstance that I had been pregnant and</p> <p>23 teaching two courses at the same time, where he</p> <p>24 specifically -- not he -- the Dean specifically said</p> <p>25 that Mohit received his lowest score while teaching the</p>
<p style="text-align: right;">147</p> <p>1 that effect. And he was asked what happened, and he</p> <p>2 said that I formed a family.</p> <p>3 He also said that if I had -- if I had</p> <p>4 been a man, my vote from the Department for my tenure</p> <p>5 case would not have been as strong. He said either that</p> <p>6 or that it was only strong because I was a woman. He</p> <p>7 said something to that effect.</p> <p>8 Q. Anything else for Dr. Tewfik?</p> <p>9 A. Yes. Going back and reviewing -- going back</p> <p>10 and reviewing the letter he wrote for my tenure case and</p> <p>11 the letter that he wrote for Professor Mohit Tiwari, who</p> <p>12 was considered for tenure in the same cycle as me and</p> <p>13 who was given tenure, he gave Mohit the lowest teaching</p> <p>14 scores, had been lower than mine. He had a teaching</p> <p>15 score of 3.5 and a teaching score of 3.8 versus my</p> <p>16 lowest being 3.7 and 3.9.</p> <p>17 So Mohit's lowest teaching scores were</p> <p>18 strictly lower than mine; and Professor Tewfik, in the</p> <p>19 teaching part of the letter, was largely -- easily</p> <p>20 dismissed the negative and was largely positive. And</p> <p>21 when he mentioned the teaching score of 3.5, he</p> <p>22 immediately offered -- sort of explained it away,</p> <p>23 offering -- what's the word now -- an extenuating --</p> <p>24 extenuating circumstances that one score was low because</p> <p>25 the survey scores were submitted electronically instead</p>	<p style="text-align: right;">149</p> <p>1 highest number of students. Such an explanation was not</p> <p>2 offered at all for, you know, the discussion of my</p> <p>3 teaching score.</p> <p>4 Afterwards, in interviewing the research</p> <p>5 section of Ahmed's letter for me and Ahmed's letter for</p> <p>6 Mohit, first of all, it seems to be common knowledge</p> <p>7 that the longer a letter is, the better it is for the</p> <p>8 candidate, just purely lengthwise. So --</p> <p>9 Q. What makes you say that?</p> <p>10 A. It's from firsthand knowledge when I have</p> <p>11 reviewed other candidates and hearing discussions of</p> <p>12 others, if a letter is short, even if the letter states,</p> <p>13 "I strongly support," it is not viewed as strong as a</p> <p>14 letter which has a lot of detail. So a four-page letter</p> <p>15 is better than a two-page letter and so on. So this is</p> <p>16 just general knowledge. And so reviewing that --</p> <p>17 Q. Hang on. When you say "general knowledge,"</p> <p>18 I'm a little -- I guess I'm surprised to hear that. For</p> <p>19 Dean letters, specifically, or for any sort of external</p> <p>20 review?</p> <p>21 A. No, no, external review.</p> <p>22 Q. Okay.</p> <p>23 A. External review. And in that case, I saw it</p> <p>24 for Ahmed's letter. So if you like somebody, you just</p> <p>25 tend to go on and on and on and on about what you like</p>

<p>150</p> <p>1 about them. And maybe if you don't like them as much,  2 the letter is shorter. You don't really -- that's what  3 I've heard and it's consistent with what I have read and  4 sat in committees evaluating other candidates for  5 faculty and so on. And so --  6 Q. Wait. Have you ever sat in on a -- go ahead.  7 A. -- it just struck me --  8 Q. Go ahead. I didn't mean to interrupt. That  9 was rude. Sorry, go ahead.  10 A. It just struck me that the research section  11 that Ahmed wrote for me, in his letter for me, was about  12 one page and three quarters; whereas, for Mohit, it was  13 over two pages. And I specifically remember one of the  14 words he used in his assessment of Mohit's research is  15 the word "brilliant." He had this brilliant insight  16 about this or that; and in my letter, the words used  17 were much more toned. It was like "interesting" or  18 something like that. I don't really remember the  19 language; but, for sure, it was nothing like at the  20 level of brilliant.  21 And then for service, similarly, there  22 was a much longer section for Mohit than for me. So for  23 me it was maybe three lines, and for Mohit, maybe six  24 lines, just giving an approximate count. And for Mohit,  25 the service was "excellent" or "outstanding" or whatever</p>	<p>152</p> <p>1 difficult to quantify but, nevertheless, non-  2 discriminatory?  3 A. I am -- I feel that I'm not an expert to  4 answer this question.  5 Q. Okay.  6 A. I feel it's a complex question.  7 Q. Okay. Anything else for Professor Tewfik that  8 comes to mind for a reason that you believe that he  9 discriminated on the basis of sex?  10 A. Yes. He -- I know that the year before me,  11 there had been a tenure case for a male professor who  12 ultimately had not received tenure, but he had been  13 granted conditional tenure; and initially the Dean had  14 written a negative assessment and the President  15 initially had written -- had given a negative decision.  16 And I know from hearsay that Ahmed had gone out of his  17 way to fight for that case.  18 He -- he -- from what I know, he  19 didn't -- he was immensely crushed, immensely sad. He  20 really liked that male colleague and he really wanted  21 him to succeed and he did everything he could to help  22 him succeed. And he succeeded in reversing the negative  23 President's decision to a conditional.  24 Whereas, in my case, I feel that not only  25 he didn't go out of his way to fight it; but I feel that</p>
<p>151</p> <p>1 the word was. He just went on and on raving about  2 Mohit's service. And for mine, it was -- I think he  3 assessed Mohit's service as excellent and mine as, I  4 believe, "reasonable" was the word he used and below the  5 average for assistant professors. And that struck me as  6 unfair. It was not based on explicit metrics.  7 Q. Is it --  8 A. I don't know -- yeah.  9 Q. Is it possible that Mohit Tiwari just had  10 better service to the department based on metrics that  11 are not easily measured?  12 A. I would have to -- you're asking a loaded  13 question. It's a question that's really at the heart of  14 discrimination, metrics that are not easily measured.  15 Q. So is it your testimony that there are only  16 two types of metrics, the ones that are easily measured  17 and the ones that discriminate?  18 A. No.  19 Q. Okay. So it is possible for something to be  20 difficult to measure but not discriminatory?  21 A. Okay. That's a complex question. I would  22 need to hear it one more time.  23 Q. Sure. So I'm trying to understand the  24 dichotomy that you're presenting, and I just want to  25 clarify that it is possible for something to be</p>	<p>153</p> <p>1 he actually took actions to sabotage the ultimate  2 possible change of the tenure decision.  3 Q. What actions do you feel he took to sabotage  4 you?  5 A. He was prompted -- he was requested by at  6 least two colleagues, maybe even three, that I'm aware  7 of, to hold a department-wide meeting to discuss my  8 case. A lot of people right after the decision had  9 voiced to me that they were very unhappy with the  10 decision. Many were very puzzled and confused. And at  11 least two or three people had asked for a  12 department-wide meeting to discuss my case to better  13 understand the details on what happened and on what they  14 could do to reverse the President's decision.  15 And I became aware of an e-mail exchange  16 between Ahmed and Associate Dean Speitel, where he was  17 urged not to hold a large unified meeting and to sort of  18 divide and conquer. And so he never held such a  19 meeting, despite multiple requests; and, instead, my  20 case was -- for the discussion -- the discussion was  21 suppressed. He kept them in separate factions and in  22 separate groups from the department. So no one really  23 ultimately could understand yet, to learn all the  24 details.  25 Q. And so you believe by meeting with people in</p>

<p>154</p> <p>1 small groups, that that was sabotaging your tenure case 2 with the President? 3 A. Yes. 4 Q. With regards to pregnancy discrimination, is 5 there anything that you would add to the list for Tewfik 6 that we haven't already talked about? 7 A. Yes. 8 Q. Okay. What was that? 9 A. I just remembered -- yeah. Sorry. 10 Q. No. Go ahead. 11 A. Yeah, I just remembered that reviewing my 12 faculty annual review from all the past years, I 13 realized that there was a pattern. It has -- it seemed 14 to be the norm for the majority of the faculty to 15 receive an annual review of exceeds expectations. There 16 are three possible ratings: Exceeds expectations, meets 17 expectations, or do not meet expectations. And in 18 multiple years, every single assistant professor 19 received the rating of exceeds expectations except for 20 me during -- precisely during the years when I had a 21 baby. 22 Q. I'm sorry. During the years when you 23 precisely -- I just didn't hear you. I apologize. 24 A. During the years when I had a baby. 25 Q. Which year was that?</p>	<p>156</p> <p>1 A. I cannot think of anything else right now. 2 Q. Okay. If something occurs to you, just let me 3 know. 4 Okay. Well, let's move on then to 5 Dean Wood. Why do you believe that Dean Wood was 6 motivated by sex or pregnancy with regards to the tenure 7 decision? 8 A. So there are -- there is sex in her assessment 9 that led me to the conclusion, to this belief -- 10 Q. Okay. Let's -- let's pull it up real -- 11 sorry. Go ahead. 12 A. And there were -- 13 Q. I was going -- go ahead. 14 A. And there were events outside of the letter 15 that also may have contributed. 16 Q. Okay. Let's do the letter first, and then 17 I'll follow up and ask you about those events. Now, I 18 believe her letter is included in the big dossier, which 19 is Exhibit 39. So if you go to that document that we 20 already looked at and go to the second page, it has her 21 assessment on there. 22 A. I have it, yeah. I have it in front of me. 23 Q. Oh, that was -- that was quick. 24 Can you point me to the part of this 25 document that you believe -- to you is evidence of</p>
<p>155</p> <p>1 A. I may give the years wrong, but I believe it 2 was in the year 2015-'16 and then again in the year 3 2018-'19 and then again in the year 2019-2020. 4 Q. So you gave birth to your second child in June 5 of 2018, correct? 6 A. Correct. 7 Q. And it's your understanding that you didn't 8 get an "exceeds expectations" for that year? 9 A. Yes, we just need to be careful. June of 2018 10 falls outside of the nine-month academic year. And I 11 believe that I received a "meets expectations" for the 12 year in which -- for the academic year in which I took 13 the MID for the birth of my child, and that was the 14 academic year of 2018-2019. 15 And then, related to that -- I'm sorry 16 for speaking without being asked -- but related to that, 17 another discriminating action was that I received lower 18 salary raises; and I ended up being among the lowest- 19 paid assistant professors in the department. 20 Q. Okay. Well, let's just focus in on the tenure 21 for now. Anything you would add for Dr. Tewfik for 22 reasons that you think that he discriminated against you 23 with regards to the tenure process that we haven't 24 already discussed? I'm just making sure that we've 25 covered everything.</p>	<p>157</p> <p>1 pregnancy discrimination or sex discrimination? 2 A. Yes. The first -- the first occurrence is the 3 table that you see in the first page of her letter. 4 Q. Okay. I'm looking at it. 5 A. The table -- to me, the mere existence of such 6 table speaks to a potential pregnancy discrimination or 7 intent. 8 Q. How so? 9 A. The table, first of all, looking through other 10 tenure candidates, I did not see such a table for 11 anybody, the others being male or women who have not 12 become pregnant. 13 Q. You don't believe that the table is there to 14 show that you'd been in rank for a long period of time, 15 like, if you include Texas A&amp;M? 16 A. No, definitely not. 17 Q. Okay. Why not? 18 A. Because there are other candidates who had 19 gone up for promotion with prior experience and there 20 was no such table for them and it was simply a 21 sentence -- 22 Q. Okay. 23 A. -- of how they had been at a prior institution 24 and what their total time in rank is. For example, Alex 25 Dimakis; for example, Zoya Heidari, and others.</p>



<p>158</p> <p>1 Q. Okay. So the table --</p> <p>2 A. The table --</p> <p>3 Q. Go ahead.</p> <p>4 A. -- in 2015-2016 Modified Instructional Duties,</p> <p>5 so it brings that center -- front and center: She had</p> <p>6 been pregnant. Let's see what happens.</p> <p>7 Q. It doesn't say anything about --</p> <p>8 A. That is how -- that is my interpretation.</p> <p>9 Q. Okay. So when you see Modified Instructional</p> <p>10 Duties, to you, that signifies a pregnancy</p> <p>11 discrimination?</p> <p>12 A. It calls attention to pregnancy; and if we go</p> <p>13 further -- well, I think we can agree on the fact that</p> <p>14 it lists -- it lists Modified Instructional Duties front</p> <p>15 and center, right? And so afterwards, when she goes</p> <p>16 into her teaching assessment for me at the bottom of the</p> <p>17 first page and beginning of the second page of her</p> <p>18 assessment, she says, "Dr. Nikolova did not teach during</p> <p>19 the 2015-'16 academic year, and since then her</p> <p>20 instructor ratings have fallen."</p> <p>21 There is a footnote, Footnote 1, in the</p> <p>22 middle of the sentence. And the footnote says: She</p> <p>23 participated in the Economics and Computational workshop</p> <p>24 at the Simons Institute of Computing at UC Berkeley</p> <p>25 during the 2015 Fall Semester and was scheduled to teach</p>	<p>160</p> <p>1 years includes the 2015-2016 probationary year, which</p> <p>2 would not have been counted. So she went -- when she</p> <p>3 says, "Only one grant has been awarded in the past four</p> <p>4 academic years," it sounds for sure worse than if she</p> <p>5 had said, "Only one grant has been awarded in the past</p> <p>6 three academic years."</p> <p>7 Q. Okay. So it's not that you just --</p> <p>8 A. So it's magnified --</p> <p>9 Q. Okay. Sorry. Go ahead.</p> <p>10 A. Yeah. It sort of magnifies the way -- the</p> <p>11 negative impact of that sentence.</p> <p>12 Q. Do you -- yeah. No, I follow.</p> <p>13 Do you disagree with the accuracy of the</p> <p>14 statement that only one grant had been awarded in the</p> <p>15 past four academic years?</p> <p>16 A. I spoke to the -- yes, in part. I spoke to</p> <p>17 the -- in my final argument and in my CCAFR appeal, I</p> <p>18 felt that a correction is needed and an explanation is</p> <p>19 needed to that. One of my earlier grants that was part</p> <p>20 of the 70 percent funding was the NSF Career Award,</p> <p>21 which was a grant that was -- so the notification came</p> <p>22 in those first three years, came in 2014; but the actual</p> <p>23 money arrived in five annual installments over five</p> <p>24 years. So even if I had wanted to use up all of that</p> <p>25 money early on, it was not available. So I received</p>
<p>159</p> <p>1 two classes in the 2016 Spring Semester. However, she</p> <p>2 became pregnant during the 2015 Fall Semester and was</p> <p>3 assigned Modified Instructional Duties during 2016</p> <p>4 Spring Semester."</p> <p>5 So, to me, that footnote, together with</p> <p>6 the sentence, is making a case that my performance has</p> <p>7 dropped specifically here, referring to my instructor</p> <p>8 ratings, the student/teaching course. They have dropped</p> <p>9 since the time I have a baby.</p> <p>10 Q. Anything else in this letter that you believe</p> <p>11 is evidence of pregnancy discrimination or sex</p> <p>12 discrimination?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. What else?</p> <p>15 A. She -- well, two more things that are obvious.</p> <p>16 One is on the grant, which is one of her two chief</p> <p>17 complaints and one of her two theories for denying</p> <p>18 promotion. She says, "Only one" -- "While Nikolova" --</p> <p>19 okay. So this is the beginning of page 3 of her letter.</p> <p>20 It says, "While Dr. Nikolova's external funding has come</p> <p>21 from highly competitive sources, approximately 70</p> <p>22 percent of her funding was awarded during her first</p> <p>23 three years in rank. Only one grant has been awarded in</p> <p>24 the past four academic years."</p> <p>25 So the mention of the past four academic</p>	<p>161</p> <p>1 that money -- it was about half a million -- so I</p> <p>2 received about 100K each of five consecutive years.</p> <p>3 Q. Okay. So it was --</p> <p>4 A. For the purpose of accounting, I felt this was</p> <p>5 incorrect.</p> <p>6 Q. Okay. So you -- it was -- the decision was</p> <p>7 made to appropriate that funding earlier than four</p> <p>8 academic years ago; but the funding itself was paid out</p> <p>9 in annual installments?</p> <p>10 A. Correct.</p> <p>11 Q. Okay.</p> <p>12 A. And another really important point if I may --</p> <p>13 Q. Go ahead.</p> <p>14 A. -- was introducing a metric that I had never</p> <p>15 been told of by my Chair or anybody else, a new metric</p> <p>16 on my tenure evaluation, which is some sort of pace of</p> <p>17 obtaining grants or a rate of obtaining grants. So no</p> <p>18 one had ever told me of this metric before. No one</p> <p>19 said, "Oh, you need to be sort of careful that your</p> <p>20 funding comes in at equally-spaced out time, you know."</p> <p>21 So no one had ever mentioned that to me before.</p> <p>22 What I had heard was from my colleague,</p> <p>23 Professor Alex Dimakis, who was given tenure after just</p> <p>24 one and a half years at UT, being four years early. He</p> <p>25 was aiming to get over one and a half million dollars in</p>



<p>162</p> <p>1 grants total. So I felt I had that as well, and so I 2 felt I had matched it.</p> <p>3 Also, Tewfik had never spoken about sort 4 of a pace of grants, obtaining grants, like the way it's 5 mentioned here. And Chair Tewfik, when he first saw her 6 assessment, his reaction was, "Oh, she's playing the 7 same game here as she did last year for Professor Jang," 8 who had ultimately been denied tenure. He said, "She's 9 playing the same game as last year." I didn't know 10 enough details about Professor Jang's case; but my 11 understanding was that she had made the case that Jang 12 had not obtained enough grants later on in his career, 13 as opposed to earlier on.</p> <p>14 Q. Anything else in this letter that, to you, is 15 evidence of sex discrimination or pregnancy 16 discrimination?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. What else?</p> <p>19 A. The fact -- the fact that she called my case 20 early and she specifically called it two years early. 21 So this is the last page of her assessment. She 22 says, "If this were an up-or-out case, I would 23 likely agree with the recommendation of the Promotion 24 and Tenure committee," namely, to promote me. "However, 25 Dr. Nikolova is being considered for promotion at UT</p>	<p>164</p> <p>1 and it was, I believe, around summer, late summer or 2 fall of 2017. A new building was built, and we moved 3 from our temporary building to that new building. She 4 issued a memo that no furniture is to be changed in the 5 faculty offices; and, specifically, faculty were 6 prohibited from bringing in their personal furniture, 7 such as, sofas or personal fridges.</p> <p>8 And that struck me as imposing a 9 difficulty on women faculty who may have a baby and are 10 breastfeeding who need to store breast milk in a 11 personal fridge. And I raised it with Chair Tewfik in a 12 meeting with other faculty.</p> <p>13 He said, "Oh, good point, Evdokia. Thank 14 you. I'll relay that to the dean." And the next thing 15 we heard was that personal fridges were now allowed for 16 use in everybody's offices. And so I don't know what 17 interactions or conversations he had with Dean Wood; but 18 being the only women assistant professor at the time and 19 the only woman having recently had a baby at that time, 20 she must have known where that came from. And it may 21 have angered her. I don't know. It may have been seen 22 as challenging her authority.</p> <p>23 So this is one of the first things that 24 came to my mind when I first learned of her negative 25 decision because I just couldn't understand why she had</p>
<p>163</p> <p>1 Austin two years early." And she clarified later in her 2 CCAFR responses, as well as, I believe, she stated 3 something to that effect in her deposition in March of 4 this year, that she was following some rule of thumb 5 that the earlier the candidate is, the higher the bar 6 for promotion and tenure. And she had specifically 7 stated, I believe to CCAFR, that two years -- the bar 8 was higher for two years early than for one year early.</p> <p>9 And in my case, the second year early was 10 specifically for taking that pregnancy extension, very 11 specifically a higher bar because of me having taken a 12 pregnancy extension.</p> <p>13 Q. And when you say "pregnancy extension," you're 14 referring to the probationary year?</p> <p>15 A. Yeah.</p> <p>16 Q. Okay. Anything else while we're looking at 17 this document right now that, to you, signifies 18 evidence of sex discrimination or pregnancy 19 discrimination?</p> <p>20 A. So I -- I'm thinking of one episode which may 21 or may not be evidence, but it may provide context --</p> <p>22 Q. Okay. Go ahead.</p> <p>23 A. -- or show intent.</p> <p>24 Q. Go ahead.</p> <p>25 A. The ECE Department moved to a new building;</p>	<p>165</p> <p>1 been so negative against me.</p> <p>2 Q. So just to be clear, though, she did change 3 the policy to allow people to keep their refrigerators, 4 right, which was what your suggest was, wasn't it?</p> <p>5 A. Correct. That doesn't exclude the possibility 6 she may have felt unhappy about having to go back on her 7 own words.</p> <p>8 Q. Do you -- did anyone ever tell you that she 9 was unhappy about it?</p> <p>10 A. No.</p> <p>11 Q. And you've never spoken to her about it, 12 correct?</p> <p>13 A. Correct.</p> <p>14 Q. Any other events -- well, first of all, is 15 there anything else in this document that we haven't 16 talked about that, to you, speaks to sex or pregnancy 17 discrimination?</p> <p>18 A. Yes. You would like me to list?</p> <p>19 Q. Oh, yeah. I'm sorry. I'm asking what it is.</p> <p>20 Yeah.</p> <p>21 A. So I felt I -- I wrote very long documents in 22 the rebuttal and subsequent appeals to CCAFR and final 23 arguments explaining, but I'll try to recap again here. 24 I felt that the assessment basically minimized my 25 positive accomplishments, which I thought were the</p>

<p>166</p> <p>1 majority of my tenure case, and tried to pick out or 2 even create negative things that could be construed 3 negatively. So in that sentence it was the opposite of 4 a holistic assessment.</p> <p>5 Specifically, when speaking about my 6 teaching, it was overwhelmingly negative. It did not 7 mention any positive student comments. It did not 8 mention the positive peer teaching reviews that I had 9 received; and, instead, it just tried to really focus on 10 the few negative things that she could find.</p> <p>11 And, to me, I felt that it had been 12 written that she -- she reached her -- she made her 13 decision first -- I don't know how -- and then just 14 tried to go back and pick evidence, use as evidence to 15 support her negative recommendations.</p> <p>16 Similarly, for service, I feel that my -- 17 she, herself, admitted in her deposition that she had 18 overstated the negative statement that she made for my 19 service records when she said at the bottom of page 3 of 20 her assessment that, "However, her teaching record is 21 modest and the Budget Council expressed concerns about 22 her relatively weak engagement in the department."</p> <p>23 So she, herself, agreed that she 24 overstated this -- the Budget Council expressing 25 concerns with -- essentially, seeking out a comment that</p>	<p>168</p> <p>1 If she had truly wanted me to succeed, 2 she would have given me a warning somewhere along the 3 way before reaching that final, formal, and very 4 damaging stage. She easily could have reached out.</p> <p>5 I mean, back in the Spring she could have 6 told Ahmed, "No, she should not go up early because our 7 bar will be higher risks." If she had given a negative 8 recommendation at that time, I would have listened; and 9 I would have waited for another year so that I'm not 10 considered early. She never in the process reached out 11 to me; and as I understand, she did not reach out to 12 Ahmed to just say, "Stop," before it got to be too late 13 in the late stage in the formal tenure review.</p> <p>14 Q. Okay. Let's talk about Greg Fenves. Why do 15 you believe that Greg Fenves, in making the tenure 16 decision, was motivated by sex or pregnancy?</p> <p>17 MR. SCHMIDT: Objection, form.</p> <p>18 MR. DOWER: What's the basis, Bob? Do 19 you want me to split it up?</p> <p>20 MR. SCHMIDT: No. I think it just calls 21 for speculation and perhaps calls for a legal 22 conclusion. It may not be the greatest objection, but 23 that's my objection.</p> <p>24 MR. DOWER: Okay.</p> <p>25 Q (BY MR. DOWER) All right. Dr. Nikolova,</p>
<p>167</p> <p>1 Ahmed had put in his letter for me, which I also felt 2 was unfounded; namely, that a couple of faculty members 3 had expressed concerns about my service and my 4 participation. And nobody was in the teaching group 5 that I am aware of.</p> <p>6 So she decided to just pick that negative 7 thing and include it in her overall assessment as 8 opposed to offering an objective and balanced 9 representation of my service and in direct contrast with 10 the Budget Council's statement on my service, which was 11 written in objective records, stating all my different 12 service engagements and stating that my service exceeds 13 the expectation for an assistant professor.</p> <p>14 Q. What about events outside this letter? Are 15 there any other events outside this letter that, to you, 16 evidence intent to discriminate on either sex or 17 pregnancy for Dean Wood specifically?</p> <p>18 A. Yes. I -- I feel that if she had truly wanted 19 me to succeed and to help, she would not have gone about 20 it this way by writing completely out of the blue, 21 unexpected, to my colleagues in my department and, I 22 gather, the Promotion and Tenure Committee that had 23 voted unanimously for my case. She just went against 24 all the levels under her, promoting against my 25 recommendation.</p>	<p>169</p> <p>1 sorry. Go ahead -- or, in your opinion, from your 2 perspective, you know, why do you believe that Greg 3 Fenves discriminated against you with regard to the 4 tenure decision on the basis of either sex or pregnancy?</p> <p>5 A. And if I may -- before I get to answering the 6 question, if I may request for a break sometime in the 7 next ten minutes. We've been going --</p> <p>8 Q. Okay.</p> <p>9 A. -- for a while.</p> <p>10 So why -- why I believe Greg Fenves 11 discriminated on the basis of gender and pregnancy. 12 There is, unfortunately, no written record regarding the 13 President's Committee deliberations during the tenure 14 decision that was reached in mid-February on my case. 15 The only thing I can go by from that is the notification 16 I received from the Dean, which stated that the 17 President's decision was reached based on concerns with 18 teaching and funding, mainly because of the concerns she 19 had expressed in her letter. In other words, the 20 President sided with her decision and just upheld her, 21 took the recommendation to base his final decision on.</p> <p>22 At that time he may have been aware that 23 I had raised concerns of gender bias or pregnancy bias. 24 I do not have evidence regarding that. So he may -- he 25 may have known that already; and so the decision, that</p>

<p>170</p> <p>1 decision from February, may have come in part due to 2 discrimination and retaliation.</p> <p>3 Later, from the written evidence that we 4 have, we know that he received an e-mail around the time 5 of final arguments when he could have reversed his 6 decision based on the details, objective evidence that I 7 had presented in final arguments. He had received an 8 e-mail from one of my senior colleagues, Mattan Erez, 9 telling him that a similar situation had arisen. One 10 previous time a woman had gone up in the ECE department 11 in the five or so years -- I think it was about five 12 years prior to my case -- and that there had been 13 suspicion about gender and pregnancy discrimination 14 about her case; and that if the same was found for mine, 15 the consequences for the department would be chilling.</p> <p>16 Q. Who sent -- 17 (Simultaneous speakers.)</p> <p>18 Q. -- sent that e-mail?</p> <p>19 A. It came from Professor Mattan Erez. The first 20 name is spelled M, like Mary, A, T, like Tom, T, like 21 Tom, A, N, like Nancy; and the last name is spelled 22 E-R-E-Z, zebra.</p> <p>23 Q. Do you remember -- 24 (Simultaneous speakers.)</p> <p>25 Q. Go ahead.</p>	<p>172</p> <p>1 MR. DOWER: Bob, this is Exhibit 60. I 2 don't have the one that was stamped, but this is 3 Exhibit 60 from John Dalton's deposition.</p> <p>4 MR. SCHMIDT: That's fine.</p> <p>5 MR. DOWER: Okay. 6 (Exhibit 60 discussed.)</p> <p>7 A. I have it downloaded. Let me save it. Okay. 8 I have it saved and open in front of me. 9 Do you want me to read it?</p> <p>10 Q. (BY MR. DOWER) Oh, yeah. Sorry. I was 11 waiting to make sure you had a chance to open it, and I 12 think we were both waiting on each other again.</p> <p>13 A. Yeah.</p> <p>14 Q. So let me just drop -- go down to the top of 15 page 4, which is the -- it's sort of split between 16 page 3 and page 4; and it discusses the formal complaint 17 resolution process. Do you see that?</p> <p>18 A. Yeah.</p> <p>19 Q. And so it says that, "A complaint alleging 20 discrimination or harassment must be submitted to the 21 Office for Inclusion and Equity or the Dean of 22 Students." Did I read that correctly?</p> <p>23 A. Yes.</p> <p>24 Q. And so my question is just: Did you ever 25 submit a formal complaint of discrimination to either</p>
<p>171</p> <p>1 A. I'm sorry. I'm sorry. You go ahead, please. 2 Q. I haven't seen this e-mail. So do you 3 remember when it was sent?</p> <p>4 A. This was sent around April of 2019, around the 5 time that the President was scheduled to consider final 6 arguments for various candidates that had submitted 7 them.</p> <p>8 Q. Okay. So you think it was sent somewhere 9 around April of 2019?</p> <p>10 A. I believe so.</p> <p>11 Q. Okay.</p> <p>12 MR. DOWER: All right. Well, you had 13 requested a break; you're right, we've been going long. 14 So let's take a break.</p> <p>15 THE REPORTER: We're going off the record 16 at 3:47 p.m. 17 (Off the record from 3:47 to 4:05 p.m.)</p> <p>18 THE REPORTER: We're going back on the 19 record at 4:05 p.m.</p> <p>20 Q. (BY MR. DOWER) Let me -- oh, I should have 21 done this before, while we were on break. I'm going to 22 upload another document, not a big one, though. It 23 shouldn't take a million years, like that one time. 24 Just as soon as I can find it. Give me one second. 25 Sorry. Okay. I --</p>	<p>173</p> <p>1 the Office of Inclusion and Equity or the Office of the 2 Dean of Students?</p> <p>3 A. And these are -- I assume you mean these are 4 UT's Office for Inclusion and Equity and UT's Office for 5 the Dean of Students?</p> <p>6 Q. Yes. And I know that you filed an EEOC 7 charge. So what I mean here is the UT internal Office 8 of Inclusion and Equity.</p> <p>9 A. I believe I did not submit complaints there.</p> <p>10 Q. Okay. And my question is just: Why not?</p> <p>11 A. Sure. I actually had a conversation with 12 Professor Miryung Kim right after I learned about the 13 Dean's negative recommendation for me, so around late 14 November, early December 2018. At that time she was 15 already an associate professor with tenure at UCLA. And 16 I -- she left UT Austin during the first year that I got 17 there and I never really had gotten -- I think we only 18 overlapped for one semester in the Spring of 2014.</p> <p>19 And I knew she left and I had overheard 20 that -- I mean, I had sort of heard hearsay from 21 colleagues, from Sanjay Shakkottai, she left because she 22 went up for tenure the prior academic -- the prior 23 summer; and she had had to withdraw her case. And so I 24 kind of connected the dots after the fact and I realized 25 that she -- something happened to her and she withdrew</p>

<p style="text-align: right;">174</p> <p>1 her tenure case. And subsequently she interviewed and  2 left UT Austin for UCLA.  3 So I reached out to her. I didn't know  4 any details at that time; and she told me things under  5 confidentiality I would rather not repeat, I guess,  6 because of that confidentiality I promised to her.  7 We actually heard a bunch of details from  8 Professor Tewfik in his deposition surrounding her case,  9 but the one thing related to your question here is that  10 she went to UT's Office for Inclusion and Equity and  11 they had essentially given her the runaround and told  12 her that there is nothing she could do and she shouldn't  13 complain. And so she had been very disappointed and  14 basically decided to end it with UT.  15 So I did not go to the office because I  16 felt it wouldn't get me tenure. I felt that what I  17 wanted was to get tenure at UT in a fair -- in a fair  18 way. I wanted, you know, a fair assessment; and I  19 felt -- at that time I wasn't in the mode of  20 complaining. I simply wanted to be granted with a fair  21 decision, and I felt that the way to -- the most  22 effective way to get that would be through a CCAFR  23 appeal and through the final arguments that I sent to  24 the President.  25 Q. So I'm trying to balance my desire to make</p>	<p style="text-align: right;">176</p> <p>1 I think it's 85. In fact, I'm pretty sure it's 85.  2 THE REPORTER: That's what I have.  3 (Exhibit 85 marked.)  4 A. I have it open. Let me save it.  5 Okay. I have it saved, and it's open in  6 front of me.  7 I'm ready.  8 Q. (BY MR. DOWER) Okay. Before we switch gears  9 to this, going back to Miryung Kim, were her concerns or  10 her opinion that she had been treated differently on the  11 basis of gender, were those concerns directed -- about  12 Dr. Tewfik specifically?  13 A. I do not recall her stating concerns about  14 Dr. Tewfik in that conversation.  15 Q. What about Dean Wood? Was any of it directed  16 about Dean Wood?  17 A. I do not recall her directing it to Dean Wood.  18 Q. Okay. So then switching back to the EEOC  19 Charge, so I'm very conscientious of the need not to  20 invade any sort of privilege because, of course, the  21 top-level document of this is a letter from our very own  22 Bob Schmidt; and so I recognize we need to be careful  23 about that. Without disclosing any of the  24 communications you had with any attorneys, what led you  25 to decide to go from: I didn't get tenure, and I'm not</p>
<p style="text-align: right;">175</p> <p>1 sure that I have the information I need to do my job  2 with the desire to respect your desire to keep this  3 conversation with Miryung Kim confidential. Can you  4 tell me what the conversation was about on a high level,  5 like, sort of in a general level?  6 A. Yeah. I asked her what -- what -- basically,  7 why she had withdrawn her tenure case, what had happened  8 for her to withdraw and to subsequently leave UT.  9 Q. So was the topic of that con- -- or was the  10 reason that she left related to either gender or  11 pregnancy?  12 A. Yes, she believed so. And I believed so after  13 talking to her and especially after hearing Ahmed's  14 deposition. He gave much of the details that she  15 basically told me under confidentiality. So I guess we  16 have part of the answer.  17 Q. Do you know what stage of the process she  18 withdrew her application?  19 A. Yes. I believe it was after the department  20 vote on her tenure case.  21 Q. After the department and before the Dean?  22 A. Correct.  23 Q. Okay. Let me show another document. This is,  24 I believe, Exhibit 85?  25 MR. DOWER: Bob, correct me if I'm wrong.</p>	<p style="text-align: right;">177</p> <p>1 going to -- and I'm not filing an internal Charge of  2 Discrimination to filing a Charge of Discrimination with  3 the EEOC?  4 A. I felt very strongly that I had been treated  5 differently because -- in part or in whole, because of  6 my gender and pregnancy; and I was determined following  7 the final decision of President Fennes in response to  8 the CCAFR findings. I felt strongly about raising a  9 complaint.  10 So I was informed of the process to file  11 a complaint, to file an EEOC Charge. I wasn't aware of  12 those different institutions and processes. And so this  13 charge was filed, basically, as a step towards that  14 process.  15 Q. Okay. I just uploaded Exhibit 86.  16 (Exhibit 86 marked.)  17 A. I'm downloading.  18 Q. (BY MR. DOWER) Yeah, take your time.  19 A. I have it open. I'm saving.  20 Okay. I'm ready.  21 Q. All right. I want to talk about the  22 retaliation claims in this lawsuit, and so I thought  23 this would be a helpful way to -- helpful way to sort of  24 speed that conversation along. So let's go to page 10  25 of the Interrogatory -- the Interrogatory Responses,</p>

<p style="text-align: right;">178</p> <p>1 which is Exhibit 86.</p> <p>2 A. Okay.</p> <p>3 Q. And so the Interrogatory Number 8 asks you</p> <p>4 to -- excuse me -- to "...identify and describe any</p> <p>5 activities you took or communications you made that you</p> <p>6 contend motivated Defendant to retaliate against you."</p> <p>7 And the -- so I just kind of want to briefly walk</p> <p>8 through the responses that you give and then maybe ask a</p> <p>9 little bit of elaborating or clarifying questions.</p> <p>10 So the first -- the first actions and</p> <p>11 communications that you identified here is that, "In or</p> <p>12 about August 2018 Plaintiff confided in Dr. Christine</p> <p>13 Julien that she felt discriminated against by the ECE</p> <p>14 Department Chair, Dr. Ahmed Tewfik, because of comments</p> <p>15 he had made relating to tenure case during the summer</p> <p>16 within one month of have given birth." First of all,</p> <p>17 just for the record, did I read that correctly?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. Can you tell me: What were the</p> <p>20 comments that this refers to?</p> <p>21 A. This refers to the e-mail that Chair Tewfik</p> <p>22 sent me, that harsh e-mail that I believe we covered at</p> <p>23 the -- towards the beginning of this morning.</p> <p>24 Q. Right. Okay. Let me just confirm. Let's</p> <p>25 see. So -- okay. So it's the e-mail dated August 2nd,</p>	<p style="text-align: right;">180</p> <p>1 was very shocked by Christine's reaction. She had -- up</p> <p>2 until that moment, I had regarded her as a friend and as</p> <p>3 a mentor. And I had approached her previously a few</p> <p>4 times in difficult situations that I had for mainly,</p> <p>5 again, for empathy and kind of venting and some advice</p> <p>6 and support; and she always had been very empathetic.</p> <p>7 And in this phone conversation, she had no empathy; and</p> <p>8 she, instead, tried to neutralize me. And I -- it took</p> <p>9 me a while to figure it out.</p> <p>10 And my husband was overhearing the</p> <p>11 conversation. He only was hearing me; he wasn't hearing</p> <p>12 her. I was on the phone and he kind of made -- he saw</p> <p>13 me starting to get emotional, and I started crying. And</p> <p>14 he just did like that (indicating.) He saw that the</p> <p>15 conversation was not going anywhere, and he signalled me</p> <p>16 to stop. And it kind of took me a while to recover from</p> <p>17 the shock that I had lost a friend and that Christine</p> <p>18 was not really on my side. It took a while to process.</p> <p>19 Q. When you say -- sorry. Sorry. Go ahead. I</p> <p>20 didn't mean to interrupt.</p> <p>21 A. And, eventually -- eventually, I said -- you</p> <p>22 know, I said to Christine -- I tried to end the</p> <p>23 conversation politely and I said that, "I guess I'm not</p> <p>24 really articulating myself well. And, yeah, thank you</p> <p>25 for your time." And I ended the conversation.</p>
<p style="text-align: right;">179</p> <p>1 2018 that I believe we labeled Exhibit 70?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. I've got too many PDFs open now.</p> <p>4 Okay. All right. And so what did -- or,</p> <p>5 I guess, tell me about the conversation with Dr. Julien.</p> <p>6 A. I reached out to her after a few -- a few days</p> <p>7 after that e-mail exchange. I wrote her, "Could we</p> <p>8 please have a phone conversation?" I needed someone to</p> <p>9 kind of let steam off and vent because I had felt quite</p> <p>10 upset from that e-mail exchange.</p> <p>11 And she said, "Sure. Yes, I'm happy to</p> <p>12 talk." And we had that phone conversation.</p> <p>13 Q. And can you -- what did you tell her in that</p> <p>14 phone conversation?</p> <p>15 A. I started sort of telling her that I was very</p> <p>16 unhappy with -- with the tone in Ahmed's e-mail. And I</p> <p>17 felt it was inappropriate and unfair for my condition,</p> <p>18 having just had a baby very recently, that he is</p> <p>19 essentially depriving me of support, telling me, like, I</p> <p>20 didn't have any support while having had a baby; and I</p> <p>21 felt it was unfair treatment relating to pregnancy.</p> <p>22 And I was expecting -- I was hoping for</p> <p>23 an empathetic ear, mainly to let steam off, mainly to</p> <p>24 vent, possibly even advice on how to handle the</p> <p>25 situation, how to get a closure; but that was very -- I</p>	<p style="text-align: right;">181</p> <p>1 Q. And this was -- this was the -- the e-mail</p> <p>2 that started this from Ahmed, the one with the sharp</p> <p>3 tone, was about having your fiance and students work on</p> <p>4 the promotion dossier, that was the origin?</p> <p>5 A. Correct.</p> <p>6 Q. Okay. What -- when you said that Dr. Julien</p> <p>7 tried to neutralize you, I'm curious: What does that</p> <p>8 mean to you; or what does that mean, tried to neutralize</p> <p>9 you?</p> <p>10 A. She did not validate my emotions, which were</p> <p>11 emotions of anger, getting very upset; and she, instead,</p> <p>12 tried to argue with me that I shouldn't be feeling those</p> <p>13 emotions.</p> <p>14 Q. All right. Going back, did -- well, did you</p> <p>15 tell her in this conversation that you felt</p> <p>16 discriminated against?</p> <p>17 A. I do not recall using the word</p> <p>18 "discrimination."</p> <p>19 Q. Okay. Do you recall -- do you recall what you</p> <p>20 did say about the comments?</p> <p>21 A. I don't really recall details other than what</p> <p>22 I told you already.</p> <p>23 Q. Okay. That's fine. That's fine.</p> <p>24 Okay. Well, let's -- we already talked</p> <p>25 about -- I'm sorry. I'm referring back to Exhibit 86.</p>

<p style="text-align: right;">182</p> <p>1 We already talked about the furniture policy change in 2 the summer of 2018. So I'll skip that. Excuse me. 3 The next thing on this list is the, "In 4 or about December 2018, Plaintiff submitted a rebuttal 5 to the Dean's assessment which stated concerns of 6 'inequity' with the Dean's assessment and discussed 7 Plaintiff's pregnancy and impact on her perceived 8 performance deficiencies used as a justification for the 9 denial of tenure." First of all, just for the record, 10 did I read that correctly? 11 A. Yes. 12 Q. Okay. And is the document that this is 13 referring to, the Deans' rebuttal -- or, excuse me -- 14 the rebuttal to the Dean, is that the rebuttal letter 15 that we looked at this morning? And I think -- let me 16 see -- I think it was Exhibit 71; but I could be 17 misremembering -- oh, wait. No, no, no. It's already 18 pre-marked. It's Exhibit 7. Sorry. And this one, 19 actually the file name has the exhibit number in it, so 20 that should be easier. 21 A. I believe it is the rebuttal that we looked at 22 earlier. I -- would you like me to -- 23 Q. Yeah, if you -- 24 A. -- pull it up and open it? 25 Q. Yeah, if you don't mind.</p>	<p style="text-align: right;">184</p> <p>1 MR. SCHMIDT: Objection, form. 2 A. This is one reference to inequity. 3 Q. (BY MR. DOWER) Are there any references in 4 this document to pregnancy? 5 A. Yes. 6 Q. Okay. Where -- where is that? 7 A. Let me try to find it. I believe it was in 8 the section where I discuss my teaching scores and say 9 that I received my lowest score in the semester I was 10 pregnant. Let me try to find it. 11 Q. I think it may be the bottom of page 3. 12 A. Yeah, I see. I see it on the bottom of 13 page 3. 14 Q. Okay. So it says, "In Fall 2017 I also 15 happened to be pregnant and suffering from daily morning 16 sickness and fatigue. (My second child Elitza" -- is it 17 Elitza or "Elitza"? Sorry. 18 A. "Elitza." 19 Q. "Elitza." Sorry. I do try to get these 20 things right. 21 -- "was born in June 2018.) Despite my 22 personal challenges, I maintained the highest level of 23 professionalism and care, teaching and increased 24 teaching load of two sections and introducing new 25 initiatives to EE 360C, such as 'lunch with the</p>
<p style="text-align: right;">183</p> <p>1 A. If I can locate it among the... 2 Q. Yeah, it's been a lot. It's the one that 3 starts SW031821, and then there's an underscore, EX07 in 4 the PDF file name. 5 (Simultaneous speakers.) 6 Q. I can also upload it again if that's easier. 7 A. What -- yeah, that may be easier. 8 Q. Did you want me to re-upload it? 9 A. Please do. 10 Q. Okay. I will do that. I want to do whatever 11 makes this easiest, so. 12 A. It's downloading. I have it open. I'm ready. 13 Q. Perfect. Okay. So is this document, 14 Exhibit 7, the document that your interrogatory response 15 refers to as the rebuttal to the Dean's assessment? 16 A. Yes. 17 Q. So the reference to inequity in this document, 18 I believe, is at the bottom of page 10. Can you jump to 19 that page for me, please? 20 A. Yes. I'm there, yeah. 21 Q. Okay. And so when the Dean's assessment talks 22 about concerns of inequity, is this -- excuse me. When 23 your rebuttal to the Dean's assessment raises concerns 24 of inequity, is this the section of this document that 25 talks about inequity, on page 10?</p>	<p style="text-align: right;">185</p> <p>1 professor' and new weekly problem-solving sections, to 2 improve the student experience." Did I read that 3 correctly? 4 A. Yeah. 5 Q. Okay. And so that's the reference to 6 pregnancy in this document? 7 A. Yes. 8 Q. Okay. Going back then to Exhibit 86, now at 9 the top of page 11, this is the interrogatory responses. 10 So the next thing on this list is: Dr. Nikolova sent an 11 e-mail to the ECE department faculty which was forwarded 12 to Dean Wood that specifically raised concerns of sex 13 discrimination. And I probably should have just read 14 this verbatim; but it says that it was an e-mail sent 15 February 19th, 2019; is that correct? 16 A. Yes. 17 Q. And that was after you'd found out that 18 President Fenves was going to deny your application for 19 tenure? 20 A. Yes. 21 Q. Okay. And then the next one on this is the 22 appeal of the denial of tenure to the Committee of the 23 Council on Academic Freedom and Responsibility; and we 24 looked at that document earlier today, as well, correct? 25 A. Yes.</p>



<p>186</p> <p>1 Q. And then the next one on this list is the --</p> <p>2 it says, "On or about March 29th, Plaintiff provided to</p> <p>3 President Fenves a Request for Reconsideration/final</p> <p>4 arguments and an appeal of denial, raising concerns of</p> <p>5 sex and pregnancy discrimination." And is that the --</p> <p>6 one of the other documents that we looked at today, the</p> <p>7 Request for Reconsideration?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And then we've got, "Plaintiff filed an</p> <p>10 EEOC Charge of Discrimination." We just looked at that</p> <p>11 just a few minutes ago, correct?</p> <p>12 A. Yes.</p> <p>13 Q. And then we've got, "Plaintiff files this</p> <p>14 lawsuit objecting to discrimination." Obviously, we're</p> <p>15 here talking, so we know about the lawsuit. Okay.</p> <p>16 And, obviously, I'm just trying to make</p> <p>17 sure that we've covered everything in here.</p> <p>18 And then there's a supplemental response</p> <p>19 that says, "Dr. Nikolova also raised concerns in a</p> <p>20 proposed" -- "proposed of sex discrimination" -- excuse</p> <p>21 me; I'm getting tired.</p> <p>22 Let start that sentence over.</p> <p>23 "Dr. Nikolova also raised concerns and opposed of</p> <p>24 sex/pregnancy discrimination to ECE Department Chair,</p> <p>25 Dr. Ahmed Tewfik, in or about November and December</p>	<p>188</p> <p>1 fact, shortly before, maybe about a year earlier, I had</p> <p>2 been -- I had sought advice by a fertility specialist;</p> <p>3 and I was told something to the effect that I wouldn't</p> <p>4 be able to have any children or that I would have issues</p> <p>5 with getting pregnant.</p> <p>6 And so I had written this personal detail</p> <p>7 to kind of show to her that my pregnancy was not</p> <p>8 planned, even though I was very happy about it when it</p> <p>9 happened in light of that earlier, you know, doctor</p> <p>10 suggestion. So my pregnancy was not planned, by any</p> <p>11 means; and I felt somewhat embarrassed about the</p> <p>12 consequence that I would not be teaching two courses,</p> <p>13 instead of the usual one course of teaching relief.</p> <p>14 And I offered also in that earlier</p> <p>15 version of the rebuttal that I had -- when I first</p> <p>16 informed my Chair about my pregnancy, I had been</p> <p>17 apologetic about it. I said, "You know, I'm aware that</p> <p>18 this now lets -- you know, lets me not teach two</p> <p>19 courses -- makes me unable to teach two courses, instead</p> <p>20 of the usual one." And so I offered to teach an</p> <p>21 additional course the following semester when I'm</p> <p>22 capable of teaching; but the Chair had kindly declined.</p> <p>23 At that time I felt he had not made me make up that</p> <p>24 extra course.</p> <p>25 And so that was roughly what the</p>
<p>187</p> <p>1 2018, as well as subsequently." What is this -- what is</p> <p>2 that sentence a reference to?</p> <p>3 A. I believe it is in reference to a discussion I</p> <p>4 had with him over the phone about women who are pregnant</p> <p>5 that may have lower teaching scores because of their</p> <p>6 pregnancy. And also we had a separate, different</p> <p>7 conversation regarding an earlier version of my rebuttal</p> <p>8 to the Dean's letter that I sent to Ahmed for review</p> <p>9 before I submitted it officially. And in that letter,</p> <p>10 in that version of the rebuttal, at the very end I had</p> <p>11 about a paragraph discussing -- stating that I found the</p> <p>12 Dean's mention of pregnancy and Modified Instructional</p> <p>13 Duty when referring to me inappropriate. I was told by</p> <p>14 Brian Evans that it violated certain privacy laws, and</p> <p>15 so I had a mention of that.</p> <p>16 And I gave a little -- I felt that she</p> <p>17 considered it a negative that I had become pregnant that</p> <p>18 first time when I had been given an unbalanced teaching</p> <p>19 load and I ended up teaching two classes in the</p> <p>20 2015-2016 year. I felt that she had stated it and she</p> <p>21 probably felt negatively about it, as if I had gotten</p> <p>22 pregnant on purpose to avoid my work duties.</p> <p>23 And so I felt to alleviate that, I needed</p> <p>24 to offer some personal detail so she's aware that I had</p> <p>25 not -- it had not been a planned pregnancy. And, in</p>	<p>189</p> <p>1 paragraph was; and so Chair Tewfik, when he read my</p> <p>2 rebuttal, he said, "Oh, yeah, this is a very strong</p> <p>3 rebuttal; but I feel that you should remove that last</p> <p>4 paragraph in the rebuttal so as not to antagonize the</p> <p>5 Dean."</p> <p>6 And I just kind of listened to his advice</p> <p>7 without questioning; and I said, "Okay." And I removed</p> <p>8 the rebuttal [sic.] And I submitted the final version</p> <p>9 of the rebuttal without that paragraph to the dean and</p> <p>10 the -- I think Carmen Shockley.</p> <p>11 Q. Okay. So just so I'm clear because that was a</p> <p>12 lot of information, I just want to make sure I digested</p> <p>13 it correctly. There was an earlier draft of your</p> <p>14 rebuttal to Dean Wood's assessment that contained a more</p> <p>15 explicit reference to pregnancy and that draft was</p> <p>16 shared with Dr. Tewfik during your editing process and</p> <p>17 he suggested not including that paragraph because he</p> <p>18 felt it might antagonize the Dean, but he saw the</p> <p>19 version of it that had that paragraph. Is that -- is</p> <p>20 that accurate?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. Just making sure that I understood.</p> <p>23 Okay. And then there's the last --</p> <p>24 sorry. Going back to Exhibit 86, it -- the next</p> <p>25 sentence of that paragraph says, "Chair Tewfik opposed</p>



<p>190</p> <p>1 gender discrimination on behalf of Dr. Nikolova to  2 Dean Wood, including in UT Austin 0007476." So I just  3 want to -- I mean, that e-mail speaks for itself; but I  4 just want to understand. So you're saying that Tewfik  5 opposed gender discrimination on your behalf as it  6 relates to the tenure decision, and you are also  7 accusing him of discriminating against you on the basis  8 of gender with regards to that same decision?  9 A. Correct.  10 Q. Okay. I think that covers that section.  11 So then the next interrogatory, Number 9,  12 is about what -- you know, what actions do you contend  13 Defendant took to retaliate against you; and so the  14 first response -- or the first paragraph, I should  15 say -- and I'm now looking at the top of page 12 of the  16 interrogatory responses -- specifically talks about a  17 peer teaching evaluation conducted by Dr. Julien after  18 you raised the concerns about sex and pregnancy  19 discrimination. Is that accurate? That's what the  20 first paragraph alludes to?  21 A. Correct.  22 Q. Are there -- I'm trying to save time because  23 it's getting close, towards 5:00 o'clock; and I want to  24 respect everyone's time. Other than what's listed in  25 this paragraph, are there any other reasons that you</p>	<p>192</p> <p>1 nature of the course, and had other irregularities."  2 And now, to remember your question, were  3 you asking about --  4 Q. I was asking --  5 (Simultaneous speakers.)  6 A. -- or intent?  7 Q. Yeah, anything else that, to you, demonstrates  8 an intent to retaliate against you by Dr. Julien,  9 because there's a list of things here; and I just wanted  10 to see if there was anything else you wanted to add to  11 that list.  12 A. I am not sure if that would speak exactly to  13 the intent part; but in terms of possible motive that  14 she may have had to retaliate against me is we learned  15 in that following September, only three months later,  16 that she was picked to become the Assistant Dean for  17 Inclusion and I imagine being in conversations with  18 Dean Wood about that promotion. So she -- from that  19 September on, she literally, you know, started working  20 for the Dean; and, already, from before that, she may  21 have been preparing. And she was speaking to me from  22 all of this. She was speaking in administrative role.  23 And so I'm guessing that she wanted to  24 strengthen Dean Wood's case against me by providing a  25 more negative -- you know, a negative and unflattering</p>
<p>191</p> <p>1 believe that Dr. Julien and the other ECE professors --  2 well, actually strike that -- that Dr. Julien's teaching  3 assessment conducted of you after you complained about  4 sex discrimination and pregnancy discrimination was  5 motivated by an intent to retaliate other than what's in  6 this paragraph?  7 A. Let me read the paragraph more carefully.  8 Q. Okay. Please. Please do.  9 A. Do you mind if I read out loud?  10 Q. Oh, no. That's fine.  11 A. "Before Dr. Nikolova had raised concerns and  12 opposed sex and pregnancy discrimination at UT,  13 Dr. Christine Julien and other ECE professors gave  14 Dr. Nikolova extremely positive teaching evaluations.  15 After Dr. Nikolova opposed sex and pregnancy  16 discrimination internally at UT, the former ECE  17 Department Chair Tewfik assigned Professor Julien to do  18 a 'Peer Teaching Evaluation' of Dr. Nikolova. Unlike  19 the previous evaluations of Dr. Nikolova's teaching,  20 Professor Julien gave Dr. Nikolova a negative and  21 unflattering teaching evaluation. The negative  22 evaluation was not accurate, was performed at the 'last  23 minute' (very late in the semester) when students were  24 preparing for or taking finals and are often less  25 engaged in a course, did not take into account the</p>	<p>193</p> <p>1 teaching evaluation because what Dean Wood had stated  2 was an issue, a key reason for not promoting me; and I  3 felt that Dr. Julien wanted to give more ammunition to  4 Dean Wood to strengthen her case.  5 Q. All right. I think -- I think that fairly  6 covers that one. So let me move on to the next  7 paragraph.  8 I'll go ahead and read it out loud for  9 the record since you wanted to do that for the previous  10 one. So, "Before Dr. Nikolova opposed sex and pregnancy  11 discrimination, filed her charge of discrimination and  12 this lawsuit, Dr. Nikolova received positive annual  13 reviews. Unlike the previous positive annual reviews of  14 Dr. Nikolova, Professor Julien and the ECE Faculty  15 Evaluation Committee gave Dr. Nikolova a modest and  16 unflattering annual evaluation in June 2020. The annual  17 evaluation was not accurate and diminished or  18 negatively, pretextually, and disparately  19 mischaracterized Dr. Nikolova's performance that had  20 previously been regarded in a highly positive manner,  21 especially since the 2018-'19 academic year was one of  22 Dr. Nikolova's most productive years." First of all,  23 did I read that correctly?  24 A. Yes.  25 Q. And when you say that they gave you a modest</p>

<p style="text-align: right;">194</p> <p>1 and unflattering evaluation in June 2020, the evaluation 2 they gave you was "meets expectations"?</p> <p>3 A. Correct, so it was the rating accompanied by 4 the text; and the text is -- the text was very 5 unflattering.</p> <p>6 Q. And so why do you believe that Dr. Julien and 7 the other ECE Faculty Evaluation Committee members -- 8 why do you believe this was in retaliation for filing 9 the discrimination charge and this lawsuit?</p> <p>10 A. So, actually, I believe it falls under both 11 categories, pregnancy discrimination and retaliation.</p> <p>12 Q. Okay.</p> <p>13 A. And pregnancy discrimination, the reason I 14 believe it falls under that is that it started out -- 15 the text of annual review started out by stating that I 16 was on Modified Instructional Duty in the Fall of 2018. 17 And that was sort of the anchor to pull everything down 18 as if, you know, a pregnant woman cannot do her job 19 well. That sort of anchored it.</p> <p>20 And the following text was very 21 unflattering: She has reasonable publication service 22 and modest funding and low service; but that's 23 understandable, given her pregnancy extension, given her 24 Modified Instructional Duty. And so --</p> <p>25 Q. So does it actually refer to pregnancy, or</p>	<p style="text-align: right;">196</p> <p>1 the Complaint in a case is really an exhibit -- I guess 2 it's an exhibit. So this is 87, I guess; but it's the 3 Pleading, so.</p> <p>4 A. Is this about the exhibit or -- 5 (Simultaneous speakers.)</p> <p>6 Q. Yeah, sorry. Go ahead. That was more of a 7 side talk to Bob, I guess; but you can ignore it.</p> <p>8 MR. SCHMIDT: That's fine. 9 (Exhibit 87 marked.)</p> <p>10 Q. (BY MR. DOWER) Yeah, it's an exhibit. It's 11 an exhibit.</p> <p>12 A. Did we already see this earlier?</p> <p>13 Q. No. Sorry. This is a new one. I just 14 uploaded it to the chat.</p> <p>15 A. Okay. Okay. I have it open, and I'm saving 16 it.</p> <p>17 And if I may request, also, maybe a break 18 in the next ten minutes or so.</p> <p>19 Q. Oh, that's fine. And I'm hoping that this 20 will be the last break because I think we're getting 21 close to done.</p> <p>22 A. Okay. I'm ready.</p> <p>23 Q. Okay. So let me jump down to page 15, 24 Paragraph 83. And just tell me when you're there.</p> <p>25 A. I'm there.</p>
<p style="text-align: right;">195</p> <p>1 does it just say Modified Instructional Duty?</p> <p>2 A. I believe it says only Modified Instructional 3 Duty, but it was very clear.</p> <p>4 Q. Okay. So when you see "Modified Instructional 5 Duty," you're reading pregnancy into that because it was 6 Modified Instructional Duty based on the pregnancy?</p> <p>7 A. Correct. And --</p> <p>8 Q. Go ahead. Go ahead.</p> <p>9 A. -- you asked regarding pregnancy 10 discrimination -- well, you asked regarding retaliation.</p> <p>11 Q. Yeah. I was about to --</p> <p>12 A. The reason why I think it can be seen as 13 retaliation is that it occurred after I had been denied 14 tenure, after I had already filed the lawsuit for 15 pregnancy and sex discrimination. And I feel that it 16 was perhaps Christine Julien, as Chair of the Committee, 17 and the committee members who participated in writing my 18 reviews, saw it as helping the UT narrative that had 19 become now to diminish me as much as possible to show 20 that I was not qualified enough to be granted tenure.</p> <p>21 Q. Okay. I think -- I think at least for now I'm 22 done with that document.</p> <p>23 Let me -- let me do this. Let me show 24 you the Complaint in the lawsuit, the First Amended 25 Complaint. So I'll upload that. I don't know whether</p>	<p style="text-align: right;">197</p> <p>1 Q. Okay. And so in Paragraph, I guess, 83 and 84 2 it discusses a situation involving a request that you 3 supervise a senior design team while you were on 4 Modified Instructional Duty. Is that -- is that a fair 5 characterization of Paragraph 83 and 84? I mean, we 6 could read the whole thing. It just feels like -- a 7 little bit excessive.</p> <p>8 A. I'll trust you.</p> <p>9 Q. Okay.</p> <p>10 A. I'll take your word for it.</p> <p>11 Q. Well, I really just want to use this as a 12 launching point to show you some of the e-mail exchanges 13 that actually happened, so -- just to sort of inform the 14 discussion. So --</p> <p>15 MR. SCHMIDT: Since it's just two 16 paragraphs --</p> <p>17 MR. DOWER: Do you want me to read it 18 into the record, Bob? I don't mind.</p> <p>19 MR. SCHMIDT: You don't need to read it 20 into the record, but I just think Dr. Nikolova should 21 read it if it's going to be a launching point.</p> <p>22 MR. DOWER: Yeah, yeah. Absolutely. No 23 objections there.</p> <p>24 Q. (BY MR. DOWER) Dr. Nikolova, why don't you 25 just go ahead and take -- you don't need to read it out</p>

<p style="text-align: right;">198</p> <p>1 loud because it's an exhibit. So take a second to go 2 ahead and read Paragraphs 83 and 84. 3 A. Okay. 4 MR. DOWER: Actually, you know what, why 5 don't we take the break here? And then she can read it 6 on the break. 7 MR. SCHMIDT: That's great. That's fine. 8 MR. DOWER: Let's do that. 9 THE WITNESS: Okay. Great. 10 MR. SCHMIDT: It serves two purposes. 11 Great. Thank you. 12 THE REPORTER: We're going off the record 13 at 4:57 p.m. 14 (Off the record from 4:57 to 5:13 p.m.) 15 THE REPORTER: We're going back on the 16 record at 5:13 p.m. 17 Q (BY MR. DOWER) All right. Well, when we left 18 off, Dr. Nikolova, you were going to go ahead and read 19 through to yourself Paragraphs 83 and 84 from your 20 Amended Complaint. Did you have an opportunity to do 21 that during the break? 22 A. I'm sorry, but I forgot. 23 Q. Oh, no worries. 24 A. I can do it right now. 25 MR. DOWER: So much for efficiency, Bob.</p>	<p style="text-align: right;">200</p> <p>1 5, which is an e-mail from Dr. Tewfik dated 2 September 3rd, 2019. Do you see that? 3 A. Yes. 4 Q. And so -- so he starts out and he says, "You 5 have MID this semester. However, you'll need to 6 continue to supervise your senior design team this 7 semesters" -- excuse me -- "semester" -- singular; 8 sorry, I misspoke. "Others on MID this semester are 9 also supervising senior design teams and the college is 10 insisting on that. Thank you." Other than my little 11 verbal slip-up there, did I read that correctly? 12 A. Yes. 13 Q. Okay. And is this -- is this the starting 14 e-mail or the e-mail that starts the -- the 15 communication that's referenced in Paragraphs 83 and 84 16 of your First Amended Complaint? 17 A. I believe so. 18 Q. Okay. And so then, if we scroll a little bit 19 farther up, September 4th, 2019, you respond; and you -- 20 I'm trying to avoid reading the whole thing -- but you 21 express confusion and some, I guess, misgivings about, 22 you know, why you're being asked to supervise a senior 23 design team. Is that a fair characterization? 24 A. Yes. 25 Q. And so then he responds September 4th, 2019,</p>
<p style="text-align: right;">199</p> <p>1 (Laughter.) 2 MR. SCHMIDT: Yeah. 3 MR. DOWER: Don't worry about it. 4 MR. SCHMIDT: It's two paragraphs. 5 MR. NOTZON: She can't be blamed for 6 that. 7 MR. DOWER: And I'm not blaming her. 8 MR. SCHMIDT: You can blame -- you can 9 blame Robert Notzon or somebody else. I don't know. 10 MR. DOWER: I'll blame a Robert. I won't 11 specify which one. 12 A. (Witness silently reading document.) 13 I'm ready. 14 Q (BY MR. DOWER) Okay. So having just read 15 Paragraph 83 and 84 from the First Amended Complaint, if 16 you would, go ahead and open one of the documents that 17 was just uploaded, the one marked Exhibit 57. 18 A. Oh, yeah. Exhibit 57, yeah. 19 Q. Yeah. 20 A. I'm ready. 21 Q. Okay. And I'm not. I accidentally closed it. 22 Give me one second. 23 All right. Here we go. So since this is 24 in reverse chronological order, meaning that the oldest 25 e-mail's at the bottom, I'll -- let's start on page 4 of</p>	<p style="text-align: right;">201</p> <p>1 later that day, and says that, "The college has gotten 2 stricter on MID. Alex and you are on MID and you both 3 will need to supervise/continue supervising senior 4 design teams. Unlike courses, you have flexibility in 5 setting time with your team." Did I read that 6 correctly? 7 A. Yes. 8 Q. And then, going up again, so then, the next 9 day, September 5th, you respond; and you point out that 10 from -- from a health and medical standpoint, it's very 11 different for Alex to be required to supervise a senior 12 design team because you just -- you just will have given 13 birth sometime between now and September 18th, 2019. 14 And so you raised some of the -- some concerns about 15 this expectation. Is that a fair characterization of 16 it? 17 A. Yes. 18 Q. Okay. And so then if we go further up, he -- 19 Dr. Tewfik forwards your e-mail to Sharon Wood and Jerry 20 Speitel; and that's on Friday, September 6th, at I guess 21 2:40 a.m. Is that -- is that what you see? 22 A. I'm sorry. Can you repeat, please? 23 Q. Yeah, of course. And I know it's late in the 24 day, and we're all tired. 25 On September 6th, 2019, at 2:40 a.m. he</p>

<p>202</p> <p>1 forwards your e-mail to Sharon Wood and Jerry Speitel.  2 Do you see that?  3 A. Yes.  4 Q. And I don't know -- do you know whether -- was  5 this one of the times when Dr. Tewfik was out of the  6 country, do you remember?  7 A. He may have been. I don't remember for sure.  8 Q. Yeah, that's fine. I'm looking at some of  9 these time stamps and wondering whether he's in a  10 different time zone; but if you don't remember, don't  11 worry about it because I know that he -- during some of  12 this time, he was -- he was in another time zone,  13 another country. I think he was in Spain. Do you  14 remember whether he was in Spain at some point during  15 this time period? No? It doesn't ring a bell?  16 A. It sort of rings a bell; but amongst so many  17 things in my brain, I cannot be fully sure.  18 Q. Okay. I'm really not trying to nail you down  19 on it. It's fine.  20 Okay. But suffice it to say the next  21 e-mail in this thread is from Dean Wood to Jerry  22 Speitel; and she says, "He has to back down on this.  23 She should not be asked to mentor the student group."  24 Do you see that message?  25 A. Yes.</p>	<p>204</p> <p>1 to Friday, September 6th at around 7:15 a.m., where he  2 withdraws it -- or where, I guess, it's withdrawn; is  3 that accurate?  4 A. Yes.  5 Q. Okay. And this is what Paragraphs 83 and 84  6 are referring to in -- in your First Amended Complaint?  7 A. Yes.  8 Q. Okay. So let me -- let me just ask just a  9 couple more questions about this. Do you believe that  10 this -- that the request that you supervise a senior  11 design team was an act of retaliation against you?  12 A. Yes, I do.  13 Q. Okay. And by whom, if you have an opinion?  14 A. By a combination of Ahmed and the Dean's  15 Office.  16 Q. And why do you -- I guess retaliation against  17 you for what, like, for what activity that you took?  18 A. For filing the EEOC Charge. At that time I  19 had not yet filed a lawsuit, but I informed him of my  20 intention to file the lawsuit. And I believe that the  21 college -- so he wrote me an e-mail that the college  22 must be aware of my intention to file the lawsuit.  23 Q. Okay. One of the last things I want to  24 discuss with you before I pass the witness, in case Bob  25 has his own sort of follow-up, is the damages in this</p>
<p>203</p> <p>1 Q. And then Jerry Speitel responds and says,  2 "Agreed. I sent him an e-mail to update the discussion  3 that he and I had." And that looks like that was sent a  4 little bit after noon on September 6th, 2019, correct?  5 A. Yes.  6 (Exhibit 88 marked.)  7 Q. (BY MR. DOWER) Okay. And then that brings me  8 to the other exhibit, which is, I think -- 88 is what  9 it's been marked. And can you -- do you have that one  10 open?  11 A. Yes.  12 Q. And do you see the second from the top, it's  13 an e-mail from Dr. Tewfik to you that says, "I e-mailed  14 the dean and associate dean and they agreed to my  15 request to relieve you from senior design supervision,"  16 correct?  17 A. Yes.  18 Q. And then you respond; and you said, "Thank  19 you, Ahmed." And that was, I guess, at about 3:00 p.m.,  20 also on September 6th, 2019, correct?  21 A. Yes.  22 Q. Okay. And so the time from when Dr. Tewfik  23 indicates you -- you'll need to continue your super- --  24 to supervise your senior design team, we're talking  25 about a time from Tuesday, September 3rd at around noon</p>	<p>205</p> <p>1 case. And I want to preface this with: Whenever we're  2 talking about things like, you know, how this has  3 impacted you emotionally, it's, by definition, an  4 emotional subject; and so I approach this sensitive to  5 that fact. And I want to be as respectful as possible,  6 and so just -- just know that I appreciate that this is  7 a sensitive area that I am about to talk to you about.  8 But with that lead-in, how has you not getting tenure in  9 February of 2019 impacted you emotionally?  10 A. It has -- it just turned my world upside down,  11 literally. I feel frequently and currently -- a lot  12 these days, I just feel lost. I feel I lost my purpose  13 in life. I feel I've lost -- I'm terribly afraid that I  14 have lost my career. I'm afraid that I'm past the point  15 of no return. I -- I've lost -- I feel my reputation  16 has been damaged professionally.  17 I was not -- I was -- I was completely  18 shocked that this past year I tried really hard and very  19 extensively to search for a position at another -- a  20 faculty position at another university; and I searched  21 very broadly, including much lower-ranked schools, way  22 below UT's league. And I did not get -- I never  23 expected that I would not get any offers. I did not  24 even get any full interview invitation to any U.S.  25 universities.</p>

<p>206</p> <p>1 And I know that when I was filing the 2 lawsuit, I was warned that this is a possible effect, 3 that other potential employers may retaliate against me 4 for filing a complaint, whether it's the complaint or 5 the actual knowledge that has just come out that I have 6 been denied tenure at UT.</p> <p>7 In the words of one of my former mentors 8 from Texas A&amp;M, once I'm considered for tenure by a 9 University, if I'm denied tenure, I'm considered damaged 10 goods because without knowing any details of the case, 11 people are ready to jump to conclusions just on -- very, 12 very, very quickly; and the first conclusion that people 13 typically jump to is, "Oh, there must be something wrong 14 with her."</p> <p>15 So I feel that this hugely damaged my 16 opportunity to move to another university and to 17 continue my career. And I feel at this point I have 18 come to realize, despite what I had really hoped very 19 strongly previously, up until maybe a few months back, 20 that it would be impossible for me to continue my career 21 at UT. Just being surrounded by -- by people that 22 previously I considered friends, that I looked up to, 23 that I sought advice from, and now I feel betrayed by, I 24 just would not -- it's been tremendously psychologically 25 damaging to me; and just the thought of going back to</p>	<p>208</p> <p>1 realized that -- that I'm feeling low and I'm getting 2 depressed way more frequently than seems to be normal 3 (witness crying.)</p> <p>4 And I started -- I reached out to a 5 psychologist. I started feeling -- I started making a 6 diary just to understand for myself the extent of it, 7 just recording how many days I feel down, really down; 8 and it was, like, pretty much half. Half the days or 9 more every week I was getting really depressed and 10 hopeless (witness crying.)</p> <p>11 I wanted to -- at that time I had just 12 had my third baby. I still really hoped -- I just had 13 this feeling in me that I hoped that things at UT would 14 be resolved. And so I really worked hard to do my best 15 to satisfy the additional requirements that were set 16 forth for me by the Dean in order to satisfy her in the 17 future tenure decision so that I get tenure in the 18 next tenure consideration that I would go through 19 (witness crying.)</p> <p>20 And so I worked really hard right after I 21 had my third baby on submitting grants, way more than I 22 would have if I had received tenure because I didn't 23 need the money; but I knew from her letter -- I didn't 24 need the money to support my group at that time. I 25 still had money from my prior grant; but I knew that</p>
<p>207</p> <p>1 that environment, I'm afraid would drive me even deeper. 2 I've gone through depression, anxiety, 3 insomnia; and currently from -- from my recent 4 conversations with them, my current psychologist -- I've 5 changed three or four different therapists; it was, I 6 really felt, a battle, an uphill battle to find the 7 right therapist, which was difficult in itself. My 8 current psychologist thinks that it's PTSD because it 9 seems to have deepened over time (witness crying.)</p> <p>10 In the first semester, I was still sort 11 of in the mode to, you know, do everything I can to 12 prove -- to prove my worth, to prove my professional 13 worth, to prove that the fairer decision would have 14 been to receive tenure and to do everything I can to 15 provide evidence, logic, facts to the responsible 16 parties so that I'm granted tenure. And after that -- I 17 just put so much effort into this, just hundreds of 18 hours week after week, month after month, that I felt 19 burnt out (witness crying.)</p> <p>20 And then I kind of went into a mode of 21 depression where I just very frequently felt down, and 22 it took me a while to realize that I was depressed. 23 And, finally, I think in December, about a year after 24 the first Dean's decision, after I first learned of 25 the Dean's negative letter, about a year later, I</p>	<p>209</p> <p>1 getting another grant was necessary for me to have, you 2 know, a chance of success -- so not even a guarantee, 3 but a chance of -- a necessary condition for a 4 successful future tenure case. And so two weeks after 5 my third baby was born, I was -- after, I 6 was... (witness crying.)</p> <p>7 Q. Take your time. Take your time.</p> <p>8 A. Two hours -- two hours, one hour on, two hours 9 off in the breastfeeding; and I was completely -- my 10 brain was just much by this whole sleep deprivation. It 11 was incredible, just exhaustion. And so I -- right 12 after the pregnancy, I was back at -- back at the 13 computer every free minute I could that I was awake to 14 kind of come up and work on grant applications.</p> <p>15 So I submitted a grant application, I 16 believe, just maybe a month after my baby was born. I 17 submitted a second one two months after my baby was 18 born -- less than two months after my baby was born and 19 continued working on it. And then I -- and then I was 20 exhausted, and then I just fell into deeper depression 21 (witness crying.)</p> <p>22 I wanted to apply to other universities 23 just in case. I had really wanted to remain at UT 24 because I loved Austin. I loved my home. And my family 25 had roots in Texas, but -- so I wanted, just in case, to</p>

<p style="text-align: right;">210</p> <p>1 apply other universities; but I felt too depressed. And  2 I was just unable to complete just the basic  3 application. I was -- I was -- I didn't have it in me  4 to approach people in my community to be letter writers  5 for those other faculty applications (witness crying.)  6 And so I thought, well, I guess I just  7 cannot do it this year; and I applied for, anyway, a  8 pregnancy extension. I just have to wait until next  9 year. And those job applications, they happen really  10 only once a year, so around December. So if you miss  11 it, you have to wait a full other year. And that's what  12 I did (witness crying.)  13 And so this past December I had started  14 preparing other applications already in September,  15 three months prior, and was reaching -- and some  16 schools have earlier deadlines. Depending on the school  17 and departments, there were deadlines ranging from  18 October through February. And I just -- I worked really  19 hard on getting additional letters of reference  20 (witness crying.)  21 And I was sort of really disillusioned  22 and dismayed for what must have been damage to my  23 reputation in my professional community that people  24 who had previously written strong letters for my tenure  25 case now did not respond or declined to write me</p>	<p style="text-align: right;">212</p> <p>1 strong theoretical background needed for research. I  2 never expected even those places would just not invite  3 me for an interview, let alone an offer. And that  4 really hit me, I guess, in the last few months  5 (witness crying.)  6 I still last month -- I still, this  7 month, in June, this month, I still have kept receiving  8 rejection notices from universities; and I thought it  9 couldn't get much worse. And I thought that some  10 universities -- that some universities would be  11 different and truly believe in gender equity and take  12 those things seriously and help, rather than hurt,  13 diverse candidates; and I experienced -- I guess the  14 real world kind of hit me (witness crying.)  15 And I feel in the last few months I've  16 been mentally preparing that there may not be any future  17 for me in academia, despite all my wishes and hard work  18 to the contrary. So I feel it has really shaken my  19 confidence professionally and affected me personally;  20 and at this point, any -- any triggers, any small  21 triggers can quickly escalate into very -- have  22 detrimental effects on me (witness crying.)  23 There are many times that -- I don't know  24 if I should share -- I feel like I lost everything, so  25 why not... What's more to do? I think maybe three or</p>
<p style="text-align: right;">211</p> <p>1 letters in support of applications to other universities  2 (witness crying.)  3 And I did tell them that I -- because I  4 knew they would ask and they would see on my CV that I  5 had not been promoted. So I felt I had to explain in my  6 e-mail, asking them for a letter, what had happened.  7 And that was really embarrassing and I didn't know how  8 to do it without going into too much detail, but at the  9 same time making it to where I'm not blaming and I'm not  10 pointing fingers and I sort of do it with dignity. So  11 that was heartbreaking. And, finally, I was thrilled  12 that I was able to -- after asking way more people than  13 I initially anticipated, I was able assemble enough  14 letter writers for my applications; and then it just  15 didn't work out (witness crying.)  16 And I never expected -- I remember very  17 begrudgingly submitting applications to universities  18 which were located in places I didn't want to be  19 geographically or very, very much lower ranked. And  20 that is not because I'm snobbish but because I've become  21 aware of the difference in the rank and size, that if  22 you're at a lower-ranked university, the college may be  23 wonderful; but you have a really hard time attracting  24 strong students. And that had been the case at Texas  25 A&amp;M. You know, it was hard to attract students with a</p>	<p style="text-align: right;">213</p> <p>1 four weeks ago I had an argument, a very minor argument  2 with my husband; and it was short and very minor about  3 something really stupid. He made a remark, a snappy  4 remark, you know, who had not washed the cutting board  5 at home; and -- and I kind of took it and kind of was  6 sharp with him back. And it sort of escalated. And we  7 didn't really argue that much, and I just felt really  8 angry (witness crying.)  9 It's just all the anger surfaced in me  10 from everything, I mean, not just that conversation. I  11 think just the whole tenure and career and my life and  12 my hopes and my dreams; and it just seemed like  13 everything was upside down, and now including the one  14 secure foundation, which I felt had been my family. I  15 felt like that was the last thing I had, and now even  16 that was even going down.  17 And I kind of closed myself in my room,  18 and I started thinking about all the movies I had seen  19 where people commit suicide. And I just was imagining  20 and kind of thinking about them and the circumstances  21 and I thought I can really relate to them and I can  22 completely understand how those characters felt  23 (witness crying.)  24 And I, thankfully, don't have any friends  25 or family or people I know personally that have been</p>



<p style="text-align: right;">214</p> <p>1 affected by suicide; but I have a close friend,  2 actually, who had attempted suicide in the past. And I  3 had long discussions with her before and after, to sort  4 of understand that mental state and see how I can  5 protect myself from it. And we had had a conversation  6 about it before, and she had told me it's really  7 important to have a back-up plan from when you are  8 thinking suicide. You need to have a person that you  9 need to reach out to, and you need to know who that is.  10 And I knew immediately in my head, yes, I know that's my  11 husband (witness crying.)  12 And so after I closed myself in the  13 bedroom and was crying, just crying, just really sad and  14 hopeless and thinking about this; and I was thinking  15 there's really nothing wrong with suicide. I don't why  16 people, you know, think -- I don't know why people --  17 it's actually an excellent -- it's a really good  18 solution. It's an easy way out. It is an easy way out  19 when the pain becomes so big that you cannot bear to go  20 through it. And when you cannot see any possible way  21 out, it's so difficult and so painful, suicide is really  22 a logical option (witness crying.)  23 And I was thinking all of that; and I  24 was just crying, thinking -- thinking, being so sad for  25 my kids and thinking why -- why are my kids, my three</p>	<p style="text-align: right;">216</p> <p>1 quickly it took me to get there (witness crying.)  2 And so I've now reached out to a  3 psychiatrist. I previously was resistant because I'm  4 really scared of pills, of antidepressant pills from all  5 the stories that people get a life addictions to them  6 and are unable to go back. And I said, oh, my god. I  7 just got really worried about myself, and so I reached  8 out to another psychiatrist; and it turned out it's  9 another battle, uphill battle. It's really hard to find  10 a good psychiatrist (witness crying.)  11 So now I -- I wasn't accepted by any of  12 the doctors I reached out to; and I have, instead,  13 followed up on two of them who recommended a more  14 junior psychiatrist who has been in their practice and  15 who I'm waiting, still, now to continue with. You know,  16 I have yet to have my first psychiatrist appointment  17 (witness crying.)  18 So it has been a tremendous loss of, I  19 guess, personal self-worth, value. While I've been  20 working really hard on getting back on track, I've been  21 reading articles on depression, on PTSD, on things that  22 I can do to help. I follow diligently. I read, you  23 know; get physical exercise; get meditation; try to get  24 enough sleep, which is challenging when I'm anxious  25 (witness crying.)</p>
<p style="text-align: right;">215</p> <p>1 adorable kids that I love, why are they not enough to  2 fill that void? It was going more and more in my head  3 (witness crying.)  4 I must have realized that I'm in danger,  5 and I was just starting to hyperventilate, crying; and I  6 called my husband. I realized it was time that I called  7 for help. I called my husband and he came to me and he  8 held me in the bed. And I didn't beat around the bush,  9 and I told him I thought of killing myself. And he was  10 very good. He kind of calmed me, talked me through it.  11 "What is it you feel? Should I take you to a hospital?"  12 I said no. "Should I take you to a doctor?" I said no  13 (witness crying.)  14 And he just kind of got me through it, I  15 guess. He was able to patch me up, to kind of give me  16 enough of a boost to get me out of that state. And I  17 relayed it to my psychologist at my meeting with him  18 afterwards, and what really scared me about it is how  19 little it took to get me to that state (witness crying.)  20 I just -- I had been actually happy the  21 day before. In my calendar, my diary, I had noted that  22 I had been happy. We had had some rough patch with my  23 husband; but, actually, that particular week -- I don't  24 remember anymore -- I feel like I had been in a pretty  25 good state the day before; and it just shocked me how</p>	<p style="text-align: right;">217</p> <p>1 I currently go to a chiropractor who has  2 a more holistic approach; and he's given me -- he's  3 given me whatever, liquid supplements, that he said help  4 with sadness and depression. And I'm just doing  5 everything I can to get better for my own sake and for  6 the sake of my family (witness crying.)  7 And I don't know if -- I don't know if I  8 would continue with a career. I don't know if I will be  9 able to, even if I want to, because I feel like I've  10 been so badly shaken; and part of it is exhaustion.  11 Exhaustion sort of very easily couples with depression.  12 As soon as I feel exhausted, which is very easily,  13 exhausted and overwhelmed, it typically makes me slide  14 into a depressed mode, easily hopeless; and because of  15 that, I have felt as if I have fewer productive work  16 hours that I can work (witness crying.)  17 And at this point I basically feel  18 incapable to kind of satisfy those high requirements  19 that were set for me, and I don't know if or when I  20 would fulfill them. I feel that to get better  21 mentally, I need probably a two- or three-year break;  22 but I think that's impossible in my line of work, in my  23 profession, because as soon as you take a break, you're  24 out (witness crying.)  25 If it's past tenure, it's very possible.</p>



<p>218</p> <p>1 It's easy, and many people do it. They take leave  2 without pay, usually to start companies; but I imagine  3 it would have been easy to justify with motherhood, or  4 whatever, duties. They take a couple of years' leave  5 without pay and then come back. So that's very easy.  6 But pre-tenure, and especially if I want to find another  7 job afterwards, because at the moment I think I'm too  8 depressed to make a good impression, I feel like it  9 would be impossible to come back. It's like once you  10 leave, you close the door; and the door never opens  11 again (witness crying.)  12 I will become permanently sort of  13 blemished. People will probably just take a one-second  14 look at the state of my CV and say, "What's wrong with  15 her?" And then they would go to all the other excellent  16 candidates that have not had any breaks in their career.  17 And so why bother, you know? When you have plenty of  18 supply that's not been damaged, why bother, you know,  19 trying to figure out someone that's damaged. Whether  20 they're right or wrong, it doesn't matter at all. So  21 that's -- that's where we are (witness crying.)  22 MR. DOWER: Dr. Nikolova, I thank you for  23 your time; and I hope that you feel that I've treated  24 you with respect throughout our conversation.  25 And I will pass the witness.</p>	<p>220</p> <p>1 CHANGES AND SIGNATURE  2 WITNESS NAME: DATE OF DEPOSITION:  3 EVDOKIA NIKOLOVA June 29, 2021  4 PAGE/LINE CHANGE REASON  5 _____  6 _____  7 _____  8 _____  9 _____  10 _____  11 _____  12 _____  13 _____  14 _____  15 _____  16 _____  17 _____  18 _____  19 _____  20 _____  21 _____  22 _____  23 _____  24 _____  25 _____</p>
<p>219</p> <p>1 MR. SCHMIDT: I'd like to take a three-  2 minute break, and we'll come back.  3 MR. DOWER: Okay. Sounds good.  4 THE REPORTER: We're going off the record  5 at 5:52 p.m.  6 (Off the record from 5:52 to 5:58 p.m.)  7 THE REPORTER: We're going back on the  8 record at 5:58 p.m.  9 MR. SCHMIDT: And we will reserve our  10 questions until the time of trial, and we also request  11 that we be provided the deposition to read and sign.  12 THE REPORTER: This concludes the  13 deposition at 5:59 p.m.  14 (Deposition concluded at 5:59 p.m.)  15 --ooOoo--  16  17  18  19  20  21  22  23  24  25</p>	<p>221</p> <p>1 I, EVDOKIA NIKOLOVA, have read the  2 foregoing deposition and hereby affix my signature that  3 same is true and correct, except as noted herein.  4  5 _____  6 EVDOKIA NIKOLOVA  7  8 THE STATE OF _____ )  9 Before me, _____, on  10 this day personally appeared EVDOKIA NIKOLOVA, known to  11 me (or proved to me under oath or through  12 _____) (description of identity card or other  13 document) to be the person whose name is subscribed to  14 the foregoing instrument and acknowledged to me that  15 they executed same for the purposes and consideration  16 therein expressed.  17 Given under my hand and seal of office on  18 this _____ day of _____, _____.  19  20  21 _____  22 NOTARY PUBLIC IN AND FOR  23 THE STATE OF _____  24 My Commission Expires: _____  25</p>

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1 STATE OF TEXAS )

2 REPORTER'S CERTIFICATION

3 I, DEBBIE D. CUNNINGHAM, CSR, hereby

4 certify that the witness was duly sworn and that this

5 transcript is a true record of the testimony given by

6 the witness.

7 I further certify that I am neither

8 counsel for, related to, nor employed by any of the

9 parties or attorneys in the action in which this

10 proceeding was taken. Further, I am not a relative or

11 employee of any attorney of record in this cause, nor am

12 I financially or otherwise interested in the outcome of

13 the action.

14 Subscribed and sworn to by me this day,

15 July 24, 2021.

16

17

18

19

Debbie D. Cunningham, CSR

20 CSR 2065

Expiration: 6/30/23

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	<b>Z</b>	

**EXHIBIT 20**

Message (Digitally Signed)

**From:** Tewfik, Ahmed H [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=915C4B50497A4B2EAD89250A2B975BE7-TEWFIK AHME]  
**Sent:** 5/6/2018 10:55:19 PM  
**To:** Evdokia Nikolova [nikolova2009@gmail.com]  
**Subject:** promotion vote  
**Attachments:** smime.p7s

Hi Evdokia

Strong vote. I'll be in touch shortly regarding next steps.

**Faculty Vote: Evdokia Nikolova Promotion - Full Professors****Q2 - I approve initiating the promotion to associate professor with tenure process for Evdokia Nikolova**

#	Answer	%	Count
1	YES	90.00%	27
2	NO	6.67%	2
3	ABSTAIN	3.33%	1
	Total	100%	30

**Q3 - Please use the text box below to enter any anonymous comments (optional)**

Please use the text box below to enter any anonymous comments (optional)

Really great colleague!

We are lucky to have her.

**Faculty Vote: Evdokia Nikolova Promotion - Associate Professors****Q2 - I approve initiating the promotion to associate professor with tenure process for Evdokia Nikolova**

#	Answer	%	Count
1	YES	90.91%	10
2	NO	0.00%	0
3	ABSTAIN	9.09%	1
	Total	100%	11

**Q3 - Please use the text box below to enter any anonymous comments (optional)**

Please use the text box below to enter any anonymous comments (optional)

---

I was a bit surprised at the lack of discussion, particularly given the weak teaching record. Maybe I am just miscalibrated, but I see several areas of potential concern, so hopefully the letters are very strong (and I am wrong).

regards  
Ahmed

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Ahmed Tewfik  
Cockrell Family Regents Chair in Engineering  
Chairman, Department of Electrical and Computer Engineering  
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# EXHIBIT 21

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

EVDOKIA NIKOLOVA,	§	
	§	
Plaintiff,	§	
	§	CIVIL ACTION NUMBER
v.	§	1:19-cv-00877-RP
	§	
UNIVERSITY OF TEXAS	§	
AT AUSTIN,	§	
	§	
Defendant.	§	

ORAL AND VIDEOTAPED DEPOSITION  
(VIA ZOOM VIDEOCONFERENCING)  
PURSUANT TO F.R.C.P. 30(B)(6)  
OF  
UNIVERSITY OF TEXAS AT AUSTIN  
BY AND THROUGH ITS  
DESIGNATED ORGANIZATIONAL REPRESENTATIVE  
AND AS A FACT WITNESS  
SHARON L. WOOD, Ph.D.

THURSDAY, MARCH 18, 2021

- - -

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<p>2</p> <p>1 ORAL AND VIDEOTAPED DEPOSITION (VIA ZOOM 2 VIDEOCONFERENCING) PURSUANT TO F.R.C.P. 30(B)(6) 3 OF UNIVERSITY OF TEXAS AT AUSTIN BY AND THROUGH 4 ITS DESIGNATED ORGANIZATIONAL REPRESENTATIVE AND 5 AS A FACT WITNESS OF SHARON L. WOOD, Ph.D., 6 produced as a witness at the instance of the 7 Plaintiff, Evdokia Nikolova, and remotely duly 8 sworn, was taken in the above-styled and 9 -numbered cause on the 18th day of March, 2021, 10 from 9:03 a.m. to 6:48 p.m., before Tommi 11 Rutledge Gray, CSR, RPR, and CRR in and for the 12 State of Texas, reported remotely by machine 13 shorthand, all parties appearing remotely, the 14 witness appearing remotely from Austin, Texas, 15 pursuant to the 36th Emergency Order Regarding 16 the COVID-19 State of Disaster, Paragraphs 3.c 17 and 3.d. and Notice of Oral and Video Deposition, 18 and in accordance with the Federal Rules of Civil 19 Procedure. 20 Requirements pursuant to F.R.C.P. 30(B)(5) 21 waived by all parties present. 22 23 24 25</p>	<p>4</p> <p>1 A P P E A R A N C E S (Continued) 2 3 ALSO PRESENT: 4 Joseph D. (Jody) Hughes, Esq. (Via Zoom 5 videoconferencing) 6 Laura Alicia Barbour, Esq. (Via Zoom 7 videoconferencing) 8 Evdokia Nikolova, Ph.D. (Via Zoom 9 videoconferencing) 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p>3</p> <p>1 A P P E A R A N C E S 2 3 FOR THE PLAINTIFF, EVDOKIA NIKOLOVA: 4 Robert Notzon, Esq. (Via Zoom 5 videoconferencing) 6 THE LAW OFFICE OF ROBERT NOTZON 7 1502 West Avenue 8 Austin, Texas 78701 9 512.474.7563 10 512.852.4788 - Fax 11 email: robert@notzonlaw.com 12 - A N D - 13 Robert W. Schmidt, Esq. (Videographer) 14 (Via Zoom videoconferencing) 15 CREWS LAW FIRM, P.C. 16 701 Brazos 17 Suite 900 18 Austin, Texas 78701 19 512.346.7077 20 512.342.0007 - Fax 21 email: schmidt@crewsfirm.com 22 23 24 25</p> <p>FOR THE DEFENDANT, UNIVERSITY OF TEXAS AT AUSTIN: 16 Benjamin Lindberg Dower, Esq. (Via Zoom 17 videoconferencing) 18 Amy Snow Hilton, Esq. (Via Zoom 19 videoconferencing) 20 OFFICE OF THE ATTORNEY GENERAL OF TEXAS 21 Assistant Attorney General 22 General Litigation Division 23 300 West 15th Street 24 Austin, Texas 78701-1649 25 P.O. Box 12548 Capitol Station Austin, Texas 78711-2548 512.463.2120 512.320-0667 - Fax email: benjamin.dower@oag.texas.gov amy.hilton@oag.texas.gov</p>	<p>5</p> <p>1 I N D E X 2 WITNESS: SHARON L. WOOD, Ph.D. PAGE 3 4 APPEARANCES 3 5 EXHIBITS INDEX 6 6 7 INDIVIDUALLY AS A FACT WITNESS 8 EXAMINATION BY MR. NOTZON 11 9 10 DESIGNATED ORGANIZATIONAL REPRESENTATIVE 11 EXAMINATION BY MR. NOTZON 335 12 EXAMINATION BY MR. DOWER 344 13 14 CHANGES (IF ANY) BY WITNESS 345 15 16 WITNESS SIGNATURE PAGE 346 17 18 COURT REPORTER'S CERTIFICATE PAGE 347 19 20 21 22 23 24 25</p> <p>REPORTER'S NOTE 1: Quotation marks are used for clarity and do not necessarily reflect a direct quote. REPORTER'S NOTE 2: Please note that due to the quality of remote videoconferencing and the transmission of data, audio distortion can occur which disrupts the process of preparing a transcript that has been remotely recorded.</p>

<p>6</p> <p>1 E X H I B I T S</p> <p>2 NUMBER DESCRIPTION PAGE</p> <p>3 Exhibit 1 14</p> <p>Plaintiff's Notice of Oral and Video</p> <p>4 Deposition of Sharon Wood as Both</p> <p>Organizational Representative and as</p> <p>5 Fact Witness (Three pages)</p> <p>6 Exhibit 2 180</p> <p>Recommendation for Change in Academic</p> <p>7 Rank/Status; Dean's Assessment (Bates</p> <p>UT Austin_00021 through UT Austin_</p> <p>8 00025)</p> <p>9 Exhibit 3 200</p> <p>2018-19 Evaluation Template, Cockrell</p> <p>10 School of Engineering, Promotion and</p> <p>Tenure Committee (Two pages)</p> <p>11</p> <p>Exhibit 4 283</p> <p>12 Email to Douglas J. Dempster from</p> <p>Sharon L. Wood dated 1/27/2019 (Bates</p> <p>13 UT Austin_0007965)</p> <p>14 Exhibit 5 289</p> <p><a href="https://www.hartenergy.com/exclusives/">https://www.hartenergy.com/exclusives/</a></p> <p>15 2020-pinnacle-award-winner-dr-sharon-</p> <p>l-wood-university-texas-186588 (One</p> <p>16 page)</p> <p>17 Exhibit 6 292</p> <p>October 29, 2018, Chair's letter in</p> <p>18 support of the promotion of Prof.</p> <p>Evdokia Nikolova to the rank of</p> <p>19 Associate Professor with tenure</p> <p>(Bates UT Austin_00026 through</p> <p>20 UT Austin_00030)</p> <p>21 Exhibit 7 308</p> <p>Rebuttal to Dean Wood's Assessment</p> <p>22 (Bates UT Austin_00006 through UT</p> <p>Austin_00020)</p> <p>23</p> <p>24</p> <p>25</p>	<p>8</p> <p>1 AUSTIN, TEXAS (VIA ZOOM VIDEOCONFERENCING;</p> <p>2 THURSDAY, MARCH 18, 2021; 9:03 A.M.</p> <p>3 P R O C E E D I N G S</p> <p>4 THE COURT REPORTER: Good</p> <p>5 morning. My name is Tommi Rutledge</p> <p>6 Gray, Certified Shorthand Reporter</p> <p>7 in and for the State of Texas No.</p> <p>8 1693.</p> <p>9 Today's date is March 18th,</p> <p>10 2021 and the time is -- what time is</p> <p>11 it? It is 9:03 a.m. Pursuant to</p> <p>12 the Current Emergency Order</p> <p>13 Regarding the COVID-19 State of</p> <p>14 Disaster, this Oral Deposition of</p> <p>15 Sharon Wood is being conducted and</p> <p>16 all parties are appearing remotely</p> <p>17 via Zoom videoconferencing.</p> <p>18 The witness is located in</p> <p>19 Austin, Texas. I am administering</p> <p>20 the oath and reporting the</p> <p>21 deposition remotely via Zoom</p> <p>22 videoconferencing by stenographic</p> <p>23 means from my residence located in</p> <p>24 Mesquite, Texas.</p> <p>25 Will all counsel please state</p>
<p>7</p> <p>1 E X H I B I T S (Continued)</p> <p>2 NUMBER DESCRIPTION PAGE</p> <p>3 Exhibit 8 321</p> <p>Recommendation for Change in Academic</p> <p>4 Rank/Status 09/17/2014; Dean's</p> <p>Assessment (Bates UT Austin_0016761</p> <p>5 through UT Austin_0016764)</p> <p>6 Exhibit 9 326</p> <p>Recommendation for Change in Academic</p> <p>7 Rank/Status February 15, 2018; Dean's</p> <p>Assessment (Bates UT Austin_0016914</p> <p>8 through UT Austin_0016918)</p> <p>9 Exhibit 10 315</p> <p>Excel Spreadsheet of salary</p> <p>10 information (Five pages)</p> <p>11 Exhibit 11 339</p> <p>Excel Spreadsheet of salary</p> <p>12 information (Two pages)</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>9</p> <p>1 their appearances for the record,</p> <p>2 after which, I will swear in the</p> <p>3 witness.</p> <p>4 MR. NOTZON: Robert Notzon</p> <p>5 and Bob Schmidt for the Plaintiff,</p> <p>6 Dr. Nikolova.</p> <p>7 MR. DOWER: Benjamin Dower</p> <p>8 for the Defendant, University of</p> <p>9 Texas at Austin.</p> <p>10 THE COURT REPORTER:</p> <p>11 Anyone else? Okay. Ms. Wood, could</p> <p>12 I get you to raise your right hand,</p> <p>13 please.</p> <p>14 SHARON L. WOOD, Ph.D.,</p> <p>15 the witness hereinbefore named,</p> <p>16 being remotely duly sworn to</p> <p>17 testify the truth, the whole</p> <p>18 truth, and nothing but the truth,</p> <p>19 testified under oath as follows:</p> <p>20 MR. NOTZON: And Mr.</p> <p>21 Schmidt, are you recording?</p> <p>22 MR. SCHMIDT: Yes, I</p> <p>23 am.</p> <p>24 MR. NOTZON: Okay.</p> <p>25 And Mr. Dower, did you say you</p>

<p>10</p> <p>1 wanted to read some stipulations?</p> <p>2 MR. DOWER: Yes, please.</p> <p>3 So these are -- these are the</p> <p>4 things to which the parties have</p> <p>5 stipulated, and, Robert, of course</p> <p>6 if for some reason I get it wrong,</p> <p>7 please correct me.</p> <p>8 But the parties stipulate</p> <p>9 that this deposition may be taken</p> <p>10 remotely via Zoom. That's fairly</p> <p>11 self-evident.</p> <p>12 The parties stipulate</p> <p>13 "Objection; form" is sufficient</p> <p>14 to preserve objections to the</p> <p>15 form of the question and will</p> <p>16 be used in lieu of the more</p> <p>17 specific form-based objections.</p> <p>18 The parties stipulate that</p> <p>19 all objections except as to the</p> <p>20 form of question or answer are</p> <p>21 reserved until trial.</p> <p>22 And then this is not a</p> <p>23 stipulation, but the deponent</p> <p>24 would like an opportunity to</p> <p>25 review the transcript and</p>	<p>12</p> <p>1 time we take a break or go off the</p> <p>2 record, won't read the time and --</p> <p>3 and the provisions of Rule 30(b), I</p> <p>4 don't recall, what? 5.</p> <p>5 But if we could we have an</p> <p>6 agreement on that, as well, Mr.</p> <p>7 Dower.</p> <p>8 MR. DOWER: Yeah,</p> <p>9 that's -- that's fine with me.</p> <p>10 Now I'm looking up to see</p> <p>11 whether you got the Rule right.</p> <p>12 I'm just -- how good is Bob in</p> <p>13 this? He nailed it. It is --</p> <p>14 it is 30(b)(5), I believe.</p> <p>15 One of the hazards of</p> <p>16 working from home is I don't</p> <p>17 have my Rule book handy, so I</p> <p>18 have to look it up online,</p> <p>19 but anyway.</p> <p>20 MR. NOTZON: Okay.</p> <p>21 BY MR. NOTZON:</p> <p>22 Q. All right. Good morning, Dean Wood.</p> <p>23 A. Good morning.</p> <p>24 Q. Have you ever had your deposition</p> <p>25 taken before?</p>
<p>11</p> <p>1 recording pursuant to Federal</p> <p>2 Rule of Civil Procedure 30(e),</p> <p>3 and, Robert, I believe you also</p> <p>4 wanted that the parties stipulate</p> <p>5 that -- that we can waive the --</p> <p>6 the full read-in.</p> <p>7 MR. NOTZON: Already</p> <p>8 done. All right. Thank you.</p> <p>9 Agreed.</p> <p>10 EXAMINATION</p> <p>11 BY MR. NOTZON:</p> <p>12 Q. Dean Wood, I guess it's --</p> <p>13 MR. NOTZON: Mr. Schmidt,</p> <p>14 I don't think you've pinned Dean</p> <p>15 Wood.</p> <p>16 MR. SCHMIDT: I have</p> <p>17 pinned Dean Wood.</p> <p>18 MR. NOTZON: Okay.</p> <p>19 MR. SCHMIDT: And also,</p> <p>20 I just want to make one -- one</p> <p>21 more comment or stipulation -- and</p> <p>22 I don't have my Federal Rules</p> <p>23 here -- but I think we have agreed</p> <p>24 that as a part of this recording</p> <p>25 that I -- that we won't, every</p>	<p>13</p> <p>1 A. Once, Sir.</p> <p>2 Q. Sorry to hear it.</p> <p>3 A. Yeah.</p> <p>4 Q. So you understand that you're under</p> <p>5 oath?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. And what you have to say today</p> <p>8 has the same force and effect as if you were in</p> <p>9 front of a Judge or a jury?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. If at any time you don't</p> <p>12 understand my question, please ask me to clarify</p> <p>13 it for you.</p> <p>14 If you need a break, please let us</p> <p>15 know. This is not supposed to be an endurance</p> <p>16 contest, so I want you to be comfortable, and</p> <p>17 we'll take care of those. I may need a break</p> <p>18 myself as -- as we go along.</p> <p>19 You're -- you're also -- you've been</p> <p>20 designated as an individual fact witness based</p> <p>21 upon your personal experiences and knowledge, but</p> <p>22 you've also been designated to speak as the</p> <p>23 University of Texas on two Topics.</p> <p>24 Do you understand that to be the</p> <p>25 case?</p>

<p>14</p> <p>1 A. Yes, I do.</p> <p>2 Q. Okay. And I'm going to go ahead and</p> <p>3 put into the Chat a -- an exhibit. And that's</p> <p>4 how we'll deal with exhibits throughout the day.</p> <p>5 And it should be showing up. This</p> <p>6 will be Exhibit 1.</p> <p>7 (Exhibit 1 marked for identification.)</p> <p>8 A. Oh, I have to save it before I can</p> <p>9 open it; is that correct?</p> <p>10 Q. I don't know.</p> <p>11 A. That's what it looks like.</p> <p>12 THE COURT REPORTER: Yes,</p> <p>13 you'll need to download it first,</p> <p>14 yes.</p> <p>15 THE WITNESS: Okay.</p> <p>16 MR. NOTZON: Yeah,</p> <p>17 the download part, that's</p> <p>18 correct.</p> <p>19 MR. DOWER: I don't</p> <p>20 want to micromanage your process,</p> <p>21 but you may want to create a</p> <p>22 folder like that's just for</p> <p>23 these -- the things that -- that</p> <p>24 Robert uploads. That way, you've</p> <p>25 all got it in one place.</p>	<p>16</p> <p>1 tell us a little bit about yourself.</p> <p>2 We do have this video recorded, but</p> <p>3 there's going to be some people that will be</p> <p>4 reading the transcript.</p> <p>5 Are you a man or a woman?</p> <p>6 A. I'm a woman.</p> <p>7 Q. Okay. And about how old are you?</p> <p>8 A. I am 60 years old.</p> <p>9 Q. Okay. And where did you do your</p> <p>10 undergraduate work?</p> <p>11 A. I attended the University of</p> <p>12 Virginia.</p> <p>13 Q. Okay. And when did you get your</p> <p>14 degree?</p> <p>15 A. 1982.</p> <p>16 Q. In what field?</p> <p>17 A. Civil Engineering.</p> <p>18 Q. Okay. And did you go straight to</p> <p>19 graduate school?</p> <p>20 A. Yes, I did.</p> <p>21 Q. Okay. And well, starting at -- with</p> <p>22 the Civil Engineering degree, do you recall the</p> <p>23 percentage of women in your graduating class?</p> <p>24 A. About 30 percent.</p> <p>25 Q. Okay. And when you went to graduate</p>
<p>15</p> <p>1 THE WITNESS: Thank you.</p> <p>2 I will do that.</p> <p>3 A. Just give me a second, please.</p> <p>4 BY MR. NOTZON:</p> <p>5 Q. Yes.</p> <p>6 A. Okay. I apologize for the length of</p> <p>7 time it took me.</p> <p>8 Q. No problem. We'll all hopefully get</p> <p>9 more efficient as we go along.</p> <p>10 A. That's right.</p> <p>11 Q. So have you been able to view the</p> <p>12 document?</p> <p>13 A. Yes, I have.</p> <p>14 Q. Okay. Exhibit 1. And the last page</p> <p>15 of that exhibit has the two Topics listed.</p> <p>16 Are those the two Topics you're</p> <p>17 prepared to testify to as UT today?</p> <p>18 A. Yes, I am.</p> <p>19 Q. Okay. And what we're going to do is</p> <p>20 we're going to try to reserve the questions of</p> <p>21 you as UT on those topics for later in the day.</p> <p>22 I want to focus the beginning of --</p> <p>23 of our day with you as an individual, okay?</p> <p>24 A. Yes.</p> <p>25 Q. All right. So Dean Wood, could you</p>	<p>17</p> <p>1 school, where did you go?</p> <p>2 A. University of Illinois at Urbana-</p> <p>3 Champaign.</p> <p>4 Q. And what degree did you get?</p> <p>5 A. I received two degrees, a Master's in</p> <p>6 Civil Engineering and a Ph.D. in Civil</p> <p>7 Engineering.</p> <p>8 Q. Did you go straight through?</p> <p>9 A. Yes.</p> <p>10 Q. And what percentage of women were in</p> <p>11 that -- those programs?</p> <p>12 A. That was quite a bit less.</p> <p>13 Q. Okay.</p> <p>14 A. I think in my entire graduate program</p> <p>15 I had one class where I wasn't the only woman.</p> <p>16 Q. When you graduated, were you the only</p> <p>17 woman?</p> <p>18 A. I was the second woman at the</p> <p>19 University of Illinois to receive a Ph.D. in</p> <p>20 Structural Engineering, so there -- there were</p> <p>21 others in Environmental and other disciplines,</p> <p>22 but in structural Engineering, which is what I</p> <p>23 studied, I was the second woman.</p> <p>24 Q. At all times?</p> <p>25 A. Yes.</p>

<p>18</p> <p>1 Q. Okay. And when was the first one?</p> <p>2 A. She graduated I think in December of</p> <p>3 1983, and I graduated in May of 1986.</p> <p>4 Q. Okay. And how did you know that?</p> <p>5 She wasn't there when you were there, right?</p> <p>6 A. No, we overlapped.</p> <p>7 Q. Okay. So you knew her personally?</p> <p>8 A. I knew her -- I know her personally.</p> <p>9 She still is a very good friend of mine.</p> <p>10 We had the same Ph.D. advisor, and he</p> <p>11 was very proud of the fact that -- that Kathy was</p> <p>12 the first woman to get a Ph.D. in Structural</p> <p>13 Engineering from Illinois.</p> <p>14 Q. So your -- your -- I'm sorry -- the</p> <p>15 term you used for him was --</p> <p>16 A. My Ph.D. advisor?</p> <p>17 Q. -- "advisor."</p> <p>18 He was a man?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And after you getting -- you</p> <p>21 got your Ph.D., did you work in the industry or</p> <p>22 did you say in academia?</p> <p>23 A. I stayed in academia.</p> <p>24 Q. And where did you go from there?</p> <p>25 A. I started -- I stayed at the</p>	<p>20</p> <p>1 probation rank and I was officially promoted at</p> <p>2 the end of my sixth year because it takes one</p> <p>3 year for the review to occur.</p> <p>4 Q. And that -- you were -- that was your</p> <p>5 up-or-out year?</p> <p>6 A. That is correct, yes.</p> <p>7 Q. So that sounds like it was norm</p> <p>8 except for that first semester starting in</p> <p>9 January.</p> <p>10 A. That's correct, yes.</p> <p>11 Q. Which in and of itself becomes a</p> <p>12 norm?</p> <p>13 A. That was the norm, correct.</p> <p>14 Q. But not counting that first semester</p> <p>15 towards the -- the clock?</p> <p>16 A. Correct.</p> <p>17 Q. Okay. And how long did you stay as</p> <p>18 an Associate Professor there?</p> <p>19 A. I left in -- at the end of the Fall</p> <p>20 1995 semester.</p> <p>21 Q. Where'd you go?</p> <p>22 A. I came here to the University of</p> <p>23 Texas as an Associate Professor, and started in</p> <p>24 January of 1996.</p> <p>25 Q. Okay. And why did you move?</p>
<p>19</p> <p>1 University of Illinois. My appointment as an</p> <p>2 Assistant Professor started in January of 1986,</p> <p>3 so it was actually before I officially received</p> <p>4 my -- my Ph.D.</p> <p>5 I defended and deposited before I</p> <p>6 started my position, but my graduation date was</p> <p>7 later.</p> <p>8 Q. Okay. So kind of technically early?</p> <p>9 A. The -- the requirements required me</p> <p>10 to deposit my Ph.D. before I could start my</p> <p>11 appointment as an Assistant Professor.</p> <p>12 Q. Yeah. So -- and how many years did</p> <p>13 you teach as an Assistant Professor there?</p> <p>14 A. I was -- I don't know this off the</p> <p>15 top of my head. I was promoted after six and a</p> <p>16 half years to Associate Professor.</p> <p>17 Q. There in Illinois?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And was that the norm, six and</p> <p>20 a half years?</p> <p>21 A. Because I began in January, my first</p> <p>22 Spring semester did not count for my probationary</p> <p>23 period as an Assistant Professor, so then I was</p> <p>24 reviewed after my fifth year in -- as an</p> <p>25 Assistant Professor my -- my fifth year in</p>	<p>21</p> <p>1 A. There were wonderful professional</p> <p>2 opportunities for me at Texas.</p> <p>3 Q. Before we go on to Texas, I forgot to</p> <p>4 ask, how many other female Professors,</p> <p>5 Assistants, Associates, full Professors in</p> <p>6 Engineering were there?</p> <p>7 Well, let's start with Civil</p> <p>8 Engineering. I'm assuming you were teaching in</p> <p>9 Civil Engineering?</p> <p>10 A. I was teaching in Civil Engineering.</p> <p>11 At the time I started, I was the fifth woman in</p> <p>12 the entire College of engineering.</p> <p>13 There were two in Computer Science,</p> <p>14 there was one in Industrial Engineering, and I do</p> <p>15 not remember where the other one was, and -- and</p> <p>16 me.</p> <p>17 By the time I finished, there were</p> <p>18 other woman on the faculty in Civil Engineering,</p> <p>19 and I was not the first woman on the faculty in</p> <p>20 Civil Engineering, there had been others.</p> <p>21 As a matter of fact, the woman who</p> <p>22 was in Industrial Engineering had started in</p> <p>23 Civil Engineering, but her husband became the</p> <p>24 Department head in Civil Engineering, and because</p> <p>25 of nepotism rules, she moved to another</p>

<p style="text-align: right;">22</p> <p>1 department.</p> <p>2 Q. Okay. And the other women, what</p> <p>3 levels were they at? Assistant? Associate?</p> <p>4 Full?</p> <p>5 A. As I remember, the other four women</p> <p>6 when I started were all full Professors.</p> <p>7 Q. Okay. So they had been there a</p> <p>8 while?</p> <p>9 A. That's correct.</p> <p>10 Q. You were the first female Professor</p> <p>11 that had been promo -- or hired as an Assistant</p> <p>12 Professor in some years?</p> <p>13 A. No. While I was a student there,</p> <p>14 there was a female Assistant Professor in the</p> <p>15 Civil Engineering Department.</p> <p>16 Q. But she didn't stay?</p> <p>17 A. She did not. And I -- I do not</p> <p>18 remember her name nor do I remember why she left.</p> <p>19 I was a student, so I wasn't paying attention.</p> <p>20 Q. Right. Okay. And so then when you</p> <p>21 came to UT, did you seek out -- were you looking</p> <p>22 to -- to move?</p> <p>23 A. I -- I was. I had spent a year of</p> <p>24 sabbatical at the University of Washington during</p> <p>25 the 1983/84 academic year.</p>	<p style="text-align: right;">24</p> <p>1 A. That is correct.</p> <p>2 Q. Okay. And would it be accurate that</p> <p>3 you didn't leave Illinois because of a problem?</p> <p>4 A. So I do experimental work, and the</p> <p>5 number of faculty members who were doing</p> <p>6 experimental work decreased. My Ph.D. advisor</p> <p>7 left.</p> <p>8 A -- there were just some reasons</p> <p>9 like fewer people were doing it, so the costs</p> <p>10 were going up. So one of the big advantages of</p> <p>11 coming to the University of Texas was they had a</p> <p>12 very large structural engineering laboratory, a</p> <p>13 lot of faculty doing work, meaning that it's</p> <p>14 easier to share the costs of the -- the</p> <p>15 machinists and that sort of thing.</p> <p>16 And at the time, the Texas Department</p> <p>17 of Transportation was providing a lot of research</p> <p>18 funding, so this was a very attractive place to</p> <p>19 come to really expand my research opportunities.</p> <p>20 Q. And not work too hard to -- to try to</p> <p>21 go find those dollars?</p> <p>22 A. I wouldn't say that, Sir, no.</p> <p>23 Q. You -- you wouldn't say it required</p> <p>24 less work to get research money sufficient for</p> <p>25 your research program in Texas than it was in</p>
<p style="text-align: right;">23</p> <p>1 At that time, I was offered a job as</p> <p>2 an Associate Professor at Washington, which I</p> <p>3 declined, and then I did interview at several</p> <p>4 places before I chose the University of Texas at</p> <p>5 Austin.</p> <p>6 Q. Okay. And that was Washington and</p> <p>7 Seattle?</p> <p>8 A. That's correct, yes.</p> <p>9 Q. I always get confused because of the</p> <p>10 St. Louis one.</p> <p>11 A. Exactly; right.</p> <p>12 Q. Okay. And so you -- you looked</p> <p>13 around and -- and applied?</p> <p>14 A. I -- I did apply. I believe I was</p> <p>15 encouraged to apply. I interviewed at Michigan</p> <p>16 and Texas, and then later in the process Cornell</p> <p>17 contacted me to see if I was interested in</p> <p>18 applying there.</p> <p>19 Q. Okay. And did you get multiple</p> <p>20 offers?</p> <p>21 A. I -- I didn't -- I don't remember if</p> <p>22 I got a written offer from Michigan. I know they</p> <p>23 contacted me and extended an oral offer. I</p> <p>24 certainly got the offer from Texas.</p> <p>25 Q. Okay. To arrive as an Associate?</p>	<p style="text-align: right;">25</p> <p>1 Illinois?</p> <p>2 A. So I was able to grow my research</p> <p>3 program because I continued to have federal</p> <p>4 funding, and at the same time I could have -- I</p> <p>5 could have State funding.</p> <p>6 Q. Right.</p> <p>7 A. But still writing proposals for</p> <p>8 federal funding.</p> <p>9 Q. But wasn't it easier in Texas because</p> <p>10 you had the State funding access and you had less</p> <p>11 money that you needed to fund your research</p> <p>12 because you were sharing costs?</p> <p>13 MR. DOWER: Objection;</p> <p>14 form. Go ahead.</p> <p>15 And Dean, there may be times</p> <p>16 where I object. Go ahead and answer</p> <p>17 unless I instruct you otherwise.</p> <p>18 A. I -- I think the opportunities for</p> <p>19 collaboration were the primary reasons that I</p> <p>20 chose to come. And, to be honest, it never</p> <p>21 occurred to me that it was easier or harder to</p> <p>22 find research funding.</p> <p>23 It was -- I had opportunities to</p> <p>24 collaborate with faculty members that I did not</p> <p>25 have at the University of Illinois.</p>



<p>26</p> <p>1 BY MR. NOTZON:</p> <p>2 Q. Okay. Well, you referenced the costs</p> <p>3 when I asked you earlier. That's why -- I -- I</p> <p>4 didn't bring it up, you did, so that's why I was</p> <p>5 asking --</p> <p>6 A. You're right, I -- I did. And so in</p> <p>7 that respect, having a large group of faculty</p> <p>8 members who were sharing the costs of machinists</p> <p>9 did help reduce the costs on any given research</p> <p>10 project, that's correct, yes.</p> <p>11 Q. Because looking for and obtaining</p> <p>12 funding is a time savings for Professors?</p> <p>13 A. It is also an expectation for</p> <p>14 Professors, yes.</p> <p>15 Q. When you're doing that, you're not</p> <p>16 doing other things you could be doing as a</p> <p>17 Professor?</p> <p>18 A. Yes. As a Professor you are juggling</p> <p>19 multiple balls and you're always trying to</p> <p>20 determine what -- where you should spend your</p> <p>21 time, correct.</p> <p>22 Q. Would that be your least favorite</p> <p>23 activity as a Professor, looking for funding?</p> <p>24 A. No.</p> <p>25 Q. What's your least favorite?</p>	<p>28</p> <p>1 A. That's correct, yes.</p> <p>2 Q. Okay. And you took over from Dr.</p> <p>3 Fenves?</p> <p>4 A. Yes. Dr. Fenves was -- he became our</p> <p>5 Provost and Executive Vice President, and so I</p> <p>6 took over -- I became the Interim Dean.</p> <p>7 Q. Were you recruited or did you apply</p> <p>8 for that job?</p> <p>9 A. So the Interim Dean is really a</p> <p>10 temp -- it's a temporary appointment. I had had</p> <p>11 a conversation with Greg Fenves in his office. I</p> <p>12 told him that if he -- he told me he would like</p> <p>13 to have someone serve as Interim Dean who had</p> <p>14 experience as Department Chair, and I told him</p> <p>15 that if -- if asked, I would be willing to serve</p> <p>16 as the Interim Dean.</p> <p>17 Q. Okay. And is this just before he got</p> <p>18 named as Provost or after?</p> <p>19 A. He would only have spoken to me about</p> <p>20 it after he had been named Provost.</p> <p>21 Q. Okay. So how much time passed where</p> <p>22 there was no Dean of the school?</p> <p>23 A. No time passed because he -- he was</p> <p>24 named Provost, but it became effective about --</p> <p>25 about a month or two later.</p>
<p>27</p> <p>1 A. I think the administrative oversight,</p> <p>2 document -- documenting how you spent the money.</p> <p>3 I've had some projects where there were quarterly</p> <p>4 reports required, and so I think that's my least</p> <p>5 favorite part.</p> <p>6 Q. How old were you when you arrived at</p> <p>7 the University of Texas?</p> <p>8 A. I was 35 when I started there.</p> <p>9 Q. Okay. And when did you get into</p> <p>10 administration?</p> <p>11 A. I --</p> <p>12 MR. DOWER: Objection;</p> <p>13 form.</p> <p>14 A. I became a Department Chair in 2008.</p> <p>15 BY MR. NOTZON:</p> <p>16 Q. Okay. And which Department?</p> <p>17 A. Department of Civil, Architectural,</p> <p>18 and Environmental Engineering.</p> <p>19 Q. Okay. And how long were you a Chair</p> <p>20 there?</p> <p>21 A. I served as Chair for five years.</p> <p>22 Q. Okay. And then what did you do?</p> <p>23 A. I became the Interim Dean of the</p> <p>24 Cockrell School of Engineering.</p> <p>25 Q. Okay. And that was in 2013/2014?</p>	<p>29</p> <p>1 Q. So it was in that -- in that</p> <p>2 effective/not effective period?</p> <p>3 A. Correct. So he -- he wanted to be</p> <p>4 Dean through a Board of Regents meeting in the</p> <p>5 fall, so I don't remember the exact date when my</p> <p>6 appointment as Interim Dean was -- was effective.</p> <p>7 I think it was in October of 2013.</p> <p>8 And so he had been named sometime in</p> <p>9 the summer, and I remember having an initial</p> <p>10 conversation with him in August, and then the</p> <p>11 Provost at the time, Steve Leslie, interviewed</p> <p>12 me, spoke with me before he appointed me as the</p> <p>13 Interim Dean.</p> <p>14 Q. Oh, so actually the Provost before</p> <p>15 Mendez appointed you as Interim Dean?</p> <p>16 A. Yes. That is how I remember it</p> <p>17 because it -- the -- there -- there was a time</p> <p>18 where I was named as the Interim Dean but I was</p> <p>19 not yet appointed as the Interim Dean.</p> <p>20 Q. The dominoes flow up, not down?</p> <p>21 A. Yes.</p> <p>22 Q. And he -- and Fenves had to be</p> <p>23 replaced first before he gets -- is that -- is</p> <p>24 that how that works? Like he couldn't leave the</p> <p>25 Interim Dean position empty for any period of</p>

<p>30</p> <p>1 time?</p> <p>2 A. We do not have vacancies like that,</p> <p>3 correct.</p> <p>4 Q. Okay. Do you know if you were the</p> <p>5 first choice of Dr. Fenves?</p> <p>6 A. You would have to ask Dr. Fenves</p> <p>7 that.</p> <p>8 Q. You don't know?</p> <p>9 A. He -- he called me and asked me to do</p> <p>10 it. That is all I know.</p> <p>11 Q. Okay. And so that brings us to</p> <p>12 today. You're still -- well, actually you were</p> <p>13 Interim Dean for what, one year and then</p> <p>14 Permanent Dean?</p> <p>15 A. I was appointed the Permanent Dean on</p> <p>16 September 1st of 20 -- 2014, and the University</p> <p>17 had an open search for the position, so I did</p> <p>18 apply for that.</p> <p>19 There was a Consultative Committee</p> <p>20 that did a -- hired a headhunter, had a complete</p> <p>21 pool of candidates. I believe -- I -- there were</p> <p>22 at least three but perhaps five, I don't remember</p> <p>23 the exact number of people who actually</p> <p>24 interviewed for the position, and then I had --</p> <p>25 the -- the Provost, Greg Fenves, and the</p>	<p>32</p> <p>1 A. No.</p> <p>2 Q. Have you had any children?</p> <p>3 A. No.</p> <p>4 Q. Have you had any non-married domestic</p> <p>5 partners?</p> <p>6 A. No.</p> <p>7 Q. Do you have anyone that lives with</p> <p>8 you?</p> <p>9 A. A human, you mean?</p> <p>10 Q. Good point.</p> <p>11 Yes, I am asking -- let's start with</p> <p>12 humans, yes.</p> <p>13 A. I am the only human living in my</p> <p>14 house.</p> <p>15 Q. Okay. And that's been the case since</p> <p>16 you've been a Professor?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And just to go ahead and</p> <p>19 finish that thought, you have pets?</p> <p>20 A. I do. I have three cats who live</p> <p>21 with me.</p> <p>22 Q. All right. And just since you told</p> <p>23 us your age, I'll -- I'll disclose, I'm 58.</p> <p>24 Are you in charge of caring for any</p> <p>25 parents?</p>
<p>31</p> <p>1 President, Bill Powers, made the decision</p> <p>2 regarding who the Dean would be, and they asked</p> <p>3 me to serve. They -- they offered the job to me.</p> <p>4 Q. Do you know who your competitors</p> <p>5 were?</p> <p>6 A. I do, yes.</p> <p>7 Q. And were they all external to UT?</p> <p>8 A. Yes. I -- I'm remembering the names</p> <p>9 of three of them, and those three were external,</p> <p>10 yes.</p> <p>11 Q. Okay. And whether you remember the</p> <p>12 names of the other two or not, do you remember --</p> <p>13 A. I -- I was one, so that would be</p> <p>14 four, and I can't remember if there were four or</p> <p>15 five.</p> <p>16 Q. Okay. So you and three or you and</p> <p>17 four?</p> <p>18 A. Correct.</p> <p>19 Q. Okay. And you're remembering three</p> <p>20 as you sit here today?</p> <p>21 A. Yes.</p> <p>22 Q. And were those three that you</p> <p>23 remember male or female?</p> <p>24 A. There was one female and two men.</p> <p>25 Q. Okay. And have you been married?</p>	<p>33</p> <p>1 A. No.</p> <p>2 Q. Okay. Do you still have your</p> <p>3 parents?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. Congratulations.</p> <p>6 A. Thank you.</p> <p>7 Q. Me, too.</p> <p>8 All right. So in your experience</p> <p>9 being -- in Engineering as a student, as a</p> <p>10 graduate student, as a faculty member, as an</p> <p>11 administrator, do you understand that there is a</p> <p>12 dearth of women/females in the Engineering field?</p> <p>13 MR. DOWER: Objection;</p> <p>14 form.</p> <p>15 A. I believe I have firsthand knowledge</p> <p>16 of that, yes.</p> <p>17 BY MR. NOTZON:</p> <p>18 Q. Okay. Do you also understand that</p> <p>19 there is a field of research about that topic?</p> <p>20 A. Yes.</p> <p>21 Q. And are those research results and</p> <p>22 the data that they discuss, are those presented</p> <p>23 in -- in national and international papers on</p> <p>24 engineering?</p> <p>25 A. They are not presented in the</p>

<p>34</p> <p>1 conferences that I attend as a structural 2 engineering. 3 Q. So none of the conferences you've 4 been to have had a diversity seminar or presenter 5 on anything related to gender issues? 6 A. Well, let me limit myself to 7 structural engineering first. 8 Q. Okay. 9 A. The American Concrete Institute which 10 is, where I have spent a lot of my professional 11 time, does have a "Women in Engineering" event. 12 I mean, I've been going since 1985. 13 I do not remember when it started. I have 14 attended maybe a handful of times. It is just a 15 casual get-together. 16 Q. Okay. 17 A. There are no presentations 18 specifically about -- about the women's role in 19 the industry. 20 Q. It's more of a networking event? 21 A. That is correct, right. 22 Q. Okay. Do you understand that in 23 other Engineering conferences that there are 24 presentations on studies related to diversity 25 issues and the lack of, so to speak?</p>	<p>36</p> <p>1 Q. You don't know that from studies that 2 you've read or -- or understand exist? 3 A. I do not recall reading that 4 directly. 5 Q. Okay. You would not be surprised to 6 know that there are studies out there that 7 discuss this? 8 MR. DOWER: Objection; 9 form. 10 A. I would not be surprised. 11 BY MR. NOTZON: 12 Q. And going on with this line of 13 questioning, do you understand that there are 14 also studies and reports on the disparity of the 15 female experience when it comes -- in Engineering 16 when it comes to student teaching scores? 17 MR. DOWER: Objection; 18 form. 19 A. So I -- I'd actually like to amend my 20 answer. You -- you asked a question about how 21 women are treated that could be related to 22 their -- their salaries. 23 There was a fundamental study that 24 came out of MIT where they looked -- they looked 25 at a wide variety of factors, including the size</p>
<p>35</p> <p>1 A. Yes. 2 Q. And do you understand from your 3 firsthand experience, as well as your knowledge 4 of the data or the reports, that the issues 5 related to gender in Engineering are more than 6 just the numbers -- 7 A. Yes. 8 Q. -- of people present? 9 A. Yes. 10 Q. And those issues would be differences 11 in the way that women are treated? 12 A. Yes. 13 Q. Differences in the way women are 14 hired? 15 A. Yes. 16 Q. Paid? 17 A. Excuse me. There are studies that 18 talk about women's pay, yes. 19 Q. Promotions? 20 A. I believe that to be true. I have 21 not seen that myself. 22 Q. Funding? 23 A. Again, I haven't seen that myself. 24 Q. But you know it exists? 25 A. I would assume it exists, yes.</p>	<p>37</p> <p>1 of offices assigned to women, laboratory spaces 2 assigned to women that included salaries. 3 I -- I know of that report. And then 4 the recent movie "Picture a Scientist" went into 5 great detail about that situation. 6 BY MR. NOTZON: 7 Q. And you're referring to a specific 8 report. 9 Do you have any cite to that or 10 information about it that would allow me to find 11 it? 12 A. I would have to look it up. It came 13 out of -- it was -- the women at MIT were 14 specifically engaged in it, -- 15 Q. Okay. 16 A. -- and it came out, I would say, 15 17 to 20 years ago. 18 Q. Okay. So a while ago? 19 A. Yes. 20 Q. Okay. 21 A. The National Academy of Sciences or 22 the National Academy has put out some reports, 23 also. 24 Q. Okay. 25 A. Most recently, there -- there was one</p>

<p style="text-align: right;">38</p> <p>1 about women in STEM which I read. I'm trying to  2 remember when that came out. It's since I've  3 been Dean.  4 But that prompted a lot of discussion  5 within at the time the three Deans at UT who were  6 over STEM fields, so Linda Hickey would be the  7 College of Natural Sciences, Sharon Mosey would  8 be the Jackson School of Geosciences, and I was  9 Dean of Engineering.  10 There was a lot of discussion when  11 that report first came out, and so I don't  12 remember exactly when it was, but we had a lot  13 of -- we had conversations about it.  14 Q. And what were the nature of those  15 conversations?  16 A. I think one of the -- one of the  17 primary issues was about how graduate student  18 funding is so tied to an individual mentor, and  19 so if -- if someone is in a I'll call it a  20 hostile environment as a graduate student, they  21 don't really have a recourse because they're --  22 they're so tied to their Ph.D. advisor.  23 And they were advocating that the  24 National Science Association, for example,  25 instead of funding a faculty member to do</p>	<p style="text-align: right;">40</p> <p>1 Q. Because if any comment gets made that  2 there was a complaint, everybody knows where --  3 who's being complained about and if you're  4 relying on your advisor for your approvals, that  5 would be pretty damaging to come forward.  6 MR. DOWER: Objection;  7 form.  8 A. I believe that's -- that's why some  9 people will only report after they've graduated.  10 We wanted to try to address things as quickly as  11 possible and just find an alternative advisor, if  12 necessary.  13 What's -- what's very interesting is  14 that in a recent discussion of Deans, some of the  15 private universities are actually polling all of  16 the former students of a -- of a candidate for  17 promotion to get an indication of what the  18 climate is in their Research Group to address  19 these specific issues.  20 For the private universities, they  21 don't have the same -- they don't have the  22 obligation to make the information public, so  23 then it could be held confidentially and the  24 advisor would not know, so they are moving  25 forward with that sort of survey to address</p>
<p style="text-align: right;">39</p> <p>1 research, they should fund the grad student  2 separately, so that the graduate students would  3 have the ability to -- to shift if they -- to a  4 better environment if it was not conducive to --  5 for them.  6 That would be a huge change, and so  7 we had a lot of conversation about that. I think  8 in -- what we have done in the Cockrell School, I  9 won't say in response to that but over the past  10 few years, is we have set up a committee for  11 graduate students and also post-Doctoral Fellows,  12 so they're in a situation where they don't --  13 they're -- it is -- they're not in a good  14 situation, but they don't feel that they can talk  15 directly to their supervisor.  16 We have set up a committee of faculty  17 members so they can pick someone outside of their  18 Department to go and discuss the situation and  19 also have -- have someone who can be an advocate  20 for them and try to address the situation  21 before -- while it can still be addressed and  22 while they are still on track to complete a  23 degree.  24 Q. That sounds pretty sticky.  25 A. I believe it is, yes.</p>	<p style="text-align: right;">41</p> <p>1 climate issues.  2 With us, the situation you described  3 is exactly the case, where if a former -- even a  4 former student were to make a complaint, the  5 advisor would know immediately and there's a very  6 high risk of retaliation. So we have not  7 attempted to implement that.  8 BY MR. NOTZON:  9 Q. So what -- what you're saying is the  10 private school they've added an extra component  11 from teaching, research, and service to this  12 extra component that they have to pass?  13 A. Right. So mentoring -- the mentoring  14 right now is included in our teaching component  15 and they are treating it separately, and at a  16 meeting --  17 Q. But you could see it as a subset of  18 mentoring?  19 A. We get -- mentoring is considered in  20 our process. It's a subset, yes.  21 Q. Okay. We got off on this tangent and  22 I was asking the question about your  23 understanding of discrimination of the female  24 experience in Engineering, or STEM, as -- as you  25 stated, in student teaching scores depending on</p>

<p style="text-align: right;">42</p> <p>1 the faculty member's gender.</p> <p>2 A. There have been some reports to</p> <p>3 indicate that, yes.</p> <p>4 Q. Okay. Have you also seen reports</p> <p>5 that pregnancy also plays a role?</p> <p>6 A. I have not seen that directly,</p> <p>7 however, I have also heard that time of day</p> <p>8 influences the teaching evaluations, time of the</p> <p>9 classes offered.</p> <p>10 Q. Early morning would be worse?</p> <p>11 A. That is correct.</p> <p>12 Q. Really? Okay.</p> <p>13 But you're not saying that the early</p> <p>14 morning is on par with gender?</p> <p>15 A. I have not studied that directly, so</p> <p>16 I cannot comment on the -- I'm only reporting.</p> <p>17 I've heard of some studies.</p> <p>18 Q. There's also -- you could also add</p> <p>19 the other factors are Math, specific courses are</p> <p>20 more criticized than others; is that right?</p> <p>21 A. Not necessarily.</p> <p>22 Q. Required courses more than elective</p> <p>23 courses?</p> <p>24 A. In most cases, required courses</p> <p>25 are -- have -- will be lower, but that is not</p>	<p style="text-align: right;">44</p> <p>1 regarded as having an influence. I have not done</p> <p>2 a detailed study on my own to influence it, --</p> <p>3 BY MR. NOTZON:</p> <p>4 Q. Thanks for that --</p> <p>5 A. -- to study those impacts.</p> <p>6 Q. Thank you for that clarification.</p> <p>7 As an administrator -- as the</p> <p>8 administrator over the School of Engineering at</p> <p>9 UT, do you see it as a duty that you have to</p> <p>10 understand the issues that might be affecting all</p> <p>11 of your employees?</p> <p>12 MR. DOWER: Objection;</p> <p>13 form.</p> <p>14 A. I do believe that I -- I need to</p> <p>15 understand issues that are facing our junior</p> <p>16 faculty. I think that's especially true right</p> <p>17 now with the -- the stress of COVID, the</p> <p>18 isolation that we're all facing, so, to be</p> <p>19 honest, I'm just completing a -- a series of</p> <p>20 meetings with the junior faculty groups of four</p> <p>21 or five to make sure that I can hear directly</p> <p>22 from them.</p> <p>23 BY MR. NOTZON:</p> <p>24 Q. And you focused on -- I -- I -- I</p> <p>25 said "employees" generally and you focused on</p>
<p style="text-align: right;">43</p> <p>1 necessarily the case.</p> <p>2 Q. Large-attendance classes versus</p> <p>3 small?</p> <p>4 A. There has been that discussed, I</p> <p>5 think. That is not always the case.</p> <p>6 Q. Yeah, but you understand that -- in</p> <p>7 fact, you don't actually have to rely on studies,</p> <p>8 you know that from your own experience at UT,</p> <p>9 that all of those factors play a role in</p> <p>10 affecting student teaching scores of faculty?</p> <p>11 A. Yes, I understand there are many</p> <p>12 factors.</p> <p>13 Q. Okay. And all the ones I've listed</p> <p>14 are factors that you personally know to exist in</p> <p>15 affecting teaching stores at UT, correct?</p> <p>16 MR. DOWER: Objection;</p> <p>17 form.</p> <p>18 A. Yes. Well, I -- I do not know --</p> <p>19 I -- I do not have direct knowledge of pregnancy</p> <p>20 because I don't always know when a faculty member</p> <p>21 is pregnant and when they're -- what -- what</p> <p>22 semester they're teaching, so I cannot stipulate</p> <p>23 to that.</p> <p>24 I can tell you that the other factors</p> <p>25 you've mentioned are -- are I would say generally</p>	<p style="text-align: right;">45</p> <p>1 "junior faculty." And when I -- when I hear</p> <p>2 "junior faculty" I hear you say Assistant</p> <p>3 Professors in your draft; is that right?</p> <p>4 A. I meant Assistant and Associate</p> <p>5 Professors.</p> <p>6 Q. Okay.</p> <p>7 A. I -- I was giving you a specific</p> <p>8 example of what I -- I'm doing right now. I --</p> <p>9 when I hear about staff complaints, I -- I</p> <p>10 obviously investigate those.</p> <p>11 I -- I have tried to be more -- have</p> <p>12 more meetings with staff than my predecessor, but</p> <p>13 the -- the staff is so large that there's no way</p> <p>14 I can get to know everyone on staff in school.</p> <p>15 Q. And when you say "staff in school,"</p> <p>16 you're talking about in the Dean's Office as well</p> <p>17 as in the Departments below?</p> <p>18 A. And in the organized research units,</p> <p>19 yes.</p> <p>20 Q. Okay. How many thousands is that?</p> <p>21 A. I'm sorry, I don't know the number.</p> <p>22 Q. Okay. Is it in the thousands or just</p> <p>23 the hundreds?</p> <p>24 A. I would estimate it's in the</p> <p>25 hundreds.</p>

<p style="text-align: right;">46</p> <p>1 Q. So I understand from your series of  2 answers that the answer to my first question  3 would have been "yes," that you do see that you  4 have a duty to understand the issues that are  5 impacting your employees --  6 MR. DOWER: Objection;  7 form.  8 BY MR. NOTZON:  9 Q. -- as best as you can?  10 A. I feel the role -- as role of the  11 Dean, I need to understand if there are -- there  12 are things that are impacting negatively on our  13 faculty and staff.  14 Q. You have a duty of responsibility to  15 protect your employees to the extent that you  16 can?  17 MR. DOWER: Objection;  18 form.  19 A. I believe that I need to know if  20 there are things that need to be add -- where  21 changes need to be made, so I'll give you a  22 specific example.  23 We were hiring Assistant Professors  24 and the laboratory renovations for them were  25 taking way too long, so they did not have a</p>	<p style="text-align: right;">48</p> <p>1 discrimination or retaliation or, you know, harm,  2 even, assaults, you know, any -- any -- any kind  3 of illegal conduct.  4 You -- you understand you as the  5 administrator -- the chief administrator over the  6 School of Engineering are responsible for your  7 employees to make sure that those kinds of things  8 aren't happening, if possible?  9 MR. DOWER: Objection;  10 form.  11 A. So the employees would need to report  12 these type of activities to the appropriate  13 offices in UT Austin, so if there is a complaint  14 of illegal behavior or discrimination, there  15 would be an investigation.  16 I am not a qualified investigator,  17 and so I -- I might participate, I might provide  18 some context to the investigation. Usually it's  19 done without my knowledge.  20 So there is a complaint, there's an  21 investigation, and then I am usually engaged --  22 if -- if there is a finding, I'm engaged in -- in  23 kind of the corrective action portion of that.  24 But I am not familiar with all the --  25 every -- every law. That is beyond my</p>
<p style="text-align: right;">47</p> <p>1 laboratory to work in, they had to use someone  2 else's, so we made a priority of making sure that  3 laboratory renovations for our newest hires are  4 given the highest priority within the school.  5 So that was a change that was  6 implemented after listening to faculty and  7 understanding complaints.  8 BY MR. NOTZON:  9 Q. Okay.  10 A. I -- that's just the one that comes  11 to the top of my mind.  12 I think the -- the issue is there are  13 some -- I also have to follow University rules  14 and regulations, and so just last week someone  15 wanted me to reduce the teaching loads for all  16 the faculty, and I do not have the ability to do  17 that, so I -- I cannot snap my fingers nor -- and  18 make things happen, nor do I have an infinite  19 source of funding.  20 Q. Let me change my question a little  21 bit. You answered it fairly broadly, and I  22 appreciate that example of their interests -- you  23 know, addressing interests of employees.  24 I'm talking more in lines of  25 protecting employees from illegal activities like</p>	<p style="text-align: right;">49</p> <p>1 capability. That's why we have different groups  2 within the University who will investigate on  3 specific topics.  4 BY MR. NOTZON:  5 Q. And I -- that -- that sounds like a  6 reactive/passive approach, that if reported you  7 take action.  8 MR. DOWER: Objection;  9 form.  10 BY MR. NOTZON:  11 Q. Would that be accurate?  12 MR. DOWER: Same  13 objection.  14 A. So we have conversations with  15 Department Chairs about normal activities where  16 illegal action could occur.  17 So I'll give you an example of a  18 faculty interview: In the past, women would be  19 denied job opportunities because they were asked  20 about their mari -- marital status.  21 So we have a list of questions that  22 have been vetted by UT Legal, right, that say,  23 what -- "What can you ask during an interview  24 and what questions should you absolutely not ask  25 during an interview" so we do not violate federal</p>

<p>50</p> <p>1 law.</p> <p>2 So that's -- that's something</p> <p>3 where -- this is information we are proactive in</p> <p>4 distributing to make sure that we are protecting</p> <p>5 our faculty and also the candidates being</p> <p>6 interviewed.</p> <p>7 BY MR. NOTZON:</p> <p>8 Q. Thank you. That's what I was</p> <p>9 asking -- I was looking for, things that you saw</p> <p>10 as a duty, and you have taken that duty on and</p> <p>11 you ensure that your Departments are --</p> <p>12 understand that there are these list of questions</p> <p>13 that need to be used, and that they are trained</p> <p>14 in that so that they implement that positive,</p> <p>15 protective approach?</p> <p>16 A. So that is correct. The University</p> <p>17 also has mandatory training for all faculty and</p> <p>18 staff that they have to go through every year.</p> <p>19 This is web-based training. This is</p> <p>20 not -- it's not mandated by me; it's mandated by</p> <p>21 the University. I do see lists of people when</p> <p>22 they don't complete their training.</p> <p>23 So there's basic training that</p> <p>24 everyone has to do.</p> <p>25 Q. Okay.</p>	<p>52</p> <p>1 A. That is correct. All those are part</p> <p>2 of the mandatory training --</p> <p>3 Q. Okay.</p> <p>4 A. -- each faculty member has to do.</p> <p>5 Q. Pregnancy would also be in there?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. Is -- is pregnancy also one of</p> <p>8 the topics that is not allowed to be talked about</p> <p>9 in an interview besides marital status?</p> <p>10 A. That is correct.</p> <p>11 Q. Is pregnancy -- marital status, you</p> <p>12 don't necessarily -- I guess you could have --</p> <p>13 have a wedding ring, I don't wear all my time and</p> <p>14 I've gotten dispensation from my wife on that,</p> <p>15 just for informational purposes, so -- but it's</p> <p>16 not always immediately apparent whether</p> <p>17 somebody's married, but if somebody walks in and</p> <p>18 they're pregnant and they're showing, it might be</p> <p>19 pretty obvious.</p> <p>20 Is there a restriction on using</p> <p>21 pregnancy as a factor in taking employment action</p> <p>22 against an employee?</p> <p>23 A. I'm not sure I understand the</p> <p>24 question. You said "taking employment action."</p> <p>25 Does that mean extending an -- an offer to a --</p>
<p>51</p> <p>1 A. But that is not at -- at the Cockrell</p> <p>2 School level.</p> <p>3 Q. All right. But you said --</p> <p>4 A. Oh, absolutely, yes.</p> <p>5 Q. And earlier you talked about that</p> <p>6 meeting you had with the two other Deans, the</p> <p>7 female Deans in STEM discussing issues related to</p> <p>8 gender issues.</p> <p>9 Would you see that also as a -- more</p> <p>10 of a proactive approach to addressing potential</p> <p>11 gender problems in your school?</p> <p>12 A. I think it's important to know what</p> <p>13 other schools -- what other schools and colleges</p> <p>14 are doing and make sure we're -- we're being</p> <p>15 consistent, right.</p> <p>16 Q. And you guys are discussing the</p> <p>17 information you know about from outside UT and</p> <p>18 also from within UT --</p> <p>19 A. Correct.</p> <p>20 Q. -- on -- on gender?</p> <p>21 A. Yes.</p> <p>22 Q. And I imagine you talk about other</p> <p>23 things besides gender, as well? You talk about</p> <p>24 race, you talk about disability, you talk about</p> <p>25 age, all those things?</p>	<p>53</p> <p>1 to a candidate?</p> <p>2 Q. Well, that would be -- that would be</p> <p>3 "employment action," yeah.</p> <p>4 A. Okay.</p> <p>5 Q. And that's in the hiring process.</p> <p>6 But in any -- any process, taking any employment</p> <p>7 action on an employee because of their pregnancy</p> <p>8 or pregnancy status would be improper?</p> <p>9 MR. DOWER: Objection;</p> <p>10 form.</p> <p>11 A. The modified instructional duties is</p> <p>12 a case where a faculty member may request -- may</p> <p>13 request not to teach in a given semester due to</p> <p>14 the birth of a child.</p> <p>15 BY MR. NOTZON:</p> <p>16 Q. But that's a request, right?</p> <p>17 A. And they -- so that's -- they -- they</p> <p>18 request and that -- that gives them an ability to</p> <p>19 do that.</p> <p>20 Let -- let me give you an example</p> <p>21 where -- I know as Department Chair we</p> <p>22 interviewed -- when I was Department Chair we</p> <p>23 interviewed one candidate that was pregnant and</p> <p>24 we interviewed a second candidate who had just</p> <p>25 given birth and needed to spend -- have time to</p>



<p>54</p> <p>1 pump, and it was very awkward because she had not 2 told us she needed some extra time in the 3 schedule. 4 So after that situation, I made sure 5 that all of our -- when we were reaching out to 6 the candidates to set up the schedules, we asked, 7 "Is there any reason -- do we need to -- would 8 you like breaks at periodic times" so that we 9 could more easily accommodate something without 10 having the identify why they needed to have a 11 break. 12 So these are kind of the policies 13 that have been implemented to -- to make sure 14 that we're treating everyone fairly. 15 Q. Okay. And that's, again, not taking 16 action on an employee because of their status, 17 but you're developing an accommodation which 18 would apply to everybody, which would benefit 19 a -- a pregnant woman or a recently pregnant 20 woman? 21 A. Right. Or it could -- it could 22 benefit someone who has a physical disability and 23 just the fact -- fact of walking from office to 24 office, they need to rest, right? 25 I think we need to be cognizant of</p>	<p>56</p> <p>1 Q. Okay. So all health-related issues? 2 A. Yes. 3 Q. Okay. 4 A. And I think the requirement is if -- 5 if it was for birth or adoption of a child, the 6 individual needs to be the primary caregiver. 7 Q. Okay. On -- it sounds for all of 8 those things? 9 A. I believe so. 10 MR. NOTZON: All right. 11 Yeah, we can take a break now. 12 MR. DOWER: Okay. 13 THE COURT REPORTER: We're 14 going off the record at 10:01 a.m. 15 (Recess held from 10:01 a.m. to 10:10 a.m.) 16 THE COURT REPORTER: Okay. 17 We're going back on the record at 18 10:10 a.m. 19 MR. NOTZON: And Bob, 20 you're recording? 21 MR. SCHMIDT: Yes. Back 22 on the record and recording. 23 MR. NOTZON: I don't 24 doubt you. 25 MR. SCHMIDT: I appreciate</p>
<p>55</p> <p>1 the fact that not -- there are reasons why 2 someone may not be able to have a complete two- 3 day interview without -- without some periodic 4 breaks. 5 Q. And without the need for disclosure? 6 A. That's correct. 7 MR. DOWER: Robert, 8 speaking of periodic breaks, 9 whenever we're at a good breaking 10 time. We've been going for about 11 an hour. 12 MR. NOTZON: Let me 13 just ask one more line of questions 14 on the modified instructional duty 15 just to close that out. 16 BY MR. NOTZON: 17 Q. Modified instructional duty, is that 18 only available for child issue, pregnancy, 19 childcare, or are there -- are there the panoply 20 of disability issues that could be employed 21 there? 22 A. So it can be used for birth or 23 adoption of a child, illness within the immediate 24 family, or taking care of someone in their close 25 family, including their parents.</p>	<p>57</p> <p>1 the reminder. No, thank you very 2 much. 3 BY MR. NOTZON: 4 Q. Okay. All right. Dean Wood, we got 5 off on the modified instructional duty. 6 Do you ever say MID? 7 A. I don't know. 8 Q. Okay. You say it all out the whole 9 time? 10 A. I do. 11 Q. Okay. I will follow. 12 We got off on talking about modified 13 instructional duty when I was asking the question 14 about the propriety or not of pregnancy being 15 used as a basis for taking employment action. 16 And you responded with that, and -- 17 and I'd like to draw the distinction is the 18 modified instructional duty is requested by the 19 employee, correct? 20 A. Yes. 21 Q. And so that's a request for an 22 accommodation, not an employment action by the 23 administration on the employee. 24 Do you see the distinction there? 25 A. Yeah, I still would like a</p>

<p>58</p> <p>1 clarification about "action."  2 Q. Yeah.  3 A. You're using a term I don't quite  4 understand.  5 Q. Sure. Any -- anything related to the  6 employment relationship. So hiring, firing,  7 discipline, pay, you know, those kinds of things.  8 A. Modified instructional duties would  9 have no impact on that, correct.  10 Q. So when I said would -- would you  11 be -- would it be accurate that -- when you said  12 that like as an example not to use marital status  13 in request of a -- of an applicant about their  14 status, that wouldn't be appropriate, that  15 pregnancy would also be one of the things not to  16 ask about, correct?  17 A. Yes. We do not ask.  18 Q. And al -- and also, any employment  19 action on the employee because of their pregnancy  20 would also be inappropriate?  21 A. It would be inappropriate, yes.  22 Q. Okay. Do you have any performance  23 metrics or expectations based upon diversity --  24 MR. DOWER: Objection;  25 form.</p>	<p>60</p> <p>1 part of a -- every -- every Dean had -- went  2 through a very elaborate process last year.  3 BY MR. NOTZON:  4 Q. Okay. And so you're -- you're asked  5 to be mindful -- you were asked to look -- do  6 this analysis.  7 Is there a -- a measurement -- a  8 metric that is applied to you on an annual basis  9 to see how you're doing in your mind for them  10 towards diversity?  11 MR. DOWER: Objection;  12 form.  13 A. There is no one specific metric.  14 There are some schools where the number of female  15 faculty is much higher than the number of males/  16 men, and there are other schools the number of  17 men is much higher than the number of women.  18 So there are -- at the university  19 level there are some analyses that looks at pay  20 equity between men and women. There has also  21 been some analyses that look at pay equity  22 related to race or ethnicity.  23 Q. Are those analyses commented on in  24 your employment evaluations?  25 A. I have discussed those with the</p>
<p>59</p> <p>1 BY MR. NOTZON:  2 Q. -- for yourself as Dean?  3 MR. DOWER: Objection;  4 form. Go ahead.  5 A. I'm not sure. Are you asking me if I  6 have quotas?  7 BY MR. NOTZON:  8 Q. A quota would qualify, but I'm not  9 asking about quotas. I'm asking about any  10 metrics.  11 MR. DOWER: Objection;  12 form.  13 A. The Provost has asked us to be very  14 thoughtful in ensuring we have as diverse a  15 faculty as possible with respect that excellence  16 is expected amongst all our faculty.  17 The Provost last year -- actually  18 last year specifically asked us to look at some  19 issues related to disparities in pay, perhaps due  20 to gender, perhaps due to race or ethnicity, and  21 so we did a full evaluation of all the faculty in  22 response to that request.  23 And so it -- it was something that  24 the -- the Provost was concerned that there  25 may be some underlying issues, and so that was</p>	<p>61</p> <p>1 Provost. I do not remember if they were actually  2 during my annual review.  3 But I meet with the Provost monthly,  4 and so those would be -- when -- when the --  5 probably not my annual review, but the -- the  6 University would do an analysis and then  7 distribute it, and so it would -- when those data  8 came out, there would be time for us to look at  9 it, and then there would be a discussion with the  10 Provost to see whether there were -- there were  11 some issues with pay -- inequity in pay, for  12 example.  13 Q. But that's more of a University-wide  14 event that occurs whenever it occurs, not on an  15 annual basis?  16 A. They had been occurring annually. We  17 had a change in -- we had so much change in  18 leadership this year and a real focus on -- on  19 COVID and getting through the pandemic that I  20 have not seen those data. Those data have not  21 been shared with us this year yet, this academic  22 year.  23 Q. But they are occurring on an annual  24 basis or it just happens that they've been every  25 year because of happenstance?</p>

<p style="text-align: right;">62</p> <p>1 A. I don't know the answer to that.</p> <p>2 It's determined by the Provost's Office.</p> <p>3 Q. Okay. And another follow-up is those</p> <p>4 things are happening University-wide and they're</p> <p>5 not necessarily -- and they -- they are not</p> <p>6 documented on your performance evaluation -- your</p> <p>7 annual performance evaluation, --</p> <p>8 MR. DOWER: Objection;</p> <p>9 form.</p> <p>10 BY MR. NOTZON:</p> <p>11 Q. -- correct?</p> <p>12 A. My annual performance evaluation is</p> <p>13 oral, so there would be no written documentation</p> <p>14 of that.</p> <p>15 Q. Okay. Have you ever had a written</p> <p>16 annual evaluation since you've been Dean?</p> <p>17 A. Not that I remember.</p> <p>18 Q. Okay. Have you ever had an oral</p> <p>19 evaluation while you've been Dean where you've</p> <p>20 been asked to report on the diversity in your</p> <p>21 School?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. Is that annually or is that</p> <p>24 just every once in a while?</p> <p>25 A. Well, I'm on my fourth Provost, so I</p>	<p style="text-align: right;">64</p> <p>1 Q. Okay. And the annual report would</p> <p>2 cover the diversity issues but also other issues,</p> <p>3 as well? Or is that just a diversity report?</p> <p>4 A. This addresses some climate issues.</p> <p>5 It -- it -- we have --</p> <p>6 Q. By "climate" you mean interpersonal</p> <p>7 climate or weather climate?</p> <p>8 A. Interpersonal climate.</p> <p>9 Q. Okay. I'm sorry. That may be</p> <p>10 obvious to you, but just in case.</p> <p>11 A. Right.</p> <p>12 Q. Okay.</p> <p>13 A. So I mean, the University has</p> <p>14 statistics on the diversity of all the faculty,</p> <p>15 and then we have -- we have started implementing</p> <p>16 our own report, which not only reports statistics</p> <p>17 but reports on activities that are being</p> <p>18 undertaken.</p> <p>19 Q. So you're now in your is it seventh</p> <p>20 year?</p> <p>21 A. In my seventh year as a Permanent</p> <p>22 Dean. I had one year as Interim.</p> <p>23 Q. Okay. And how has the diversity</p> <p>24 changed under your Deanship of, I guess,</p> <p>25 comparing the diversity reports over the</p>
<p style="text-align: right;">63</p> <p>1 know that when Dr. McInnis was our Provost that</p> <p>2 was part of the information I would prepare for</p> <p>3 her each year.</p> <p>4 But I did not prepare that for the</p> <p>5 previous two, nor have I -- and I have not had --</p> <p>6 or I guess I did have a review with the prior</p> <p>7 Provost. I have -- that was not what was</p> <p>8 requested last year.</p> <p>9 Q. Okay. And who is the Provost now?</p> <p>10 A. We have an Interim Provost. It's Dan</p> <p>11 Jaffe.</p> <p>12 Q. And what have you done in terms of --</p> <p>13 well, have you kept any metrics on yourself in</p> <p>14 terms of gender diversity in the School of</p> <p>15 Engineering?</p> <p>16 A. We do maintain those statistics.</p> <p>17 Q. At your direction?</p> <p>18 A. Yes. There is a -- there's an</p> <p>19 actual -- a report that's posted on the website</p> <p>20 that provides metrics for faculty, students -- I</p> <p>21 don't remember if it has staff. I think it does.</p> <p>22 Q. Okay. And what's it called?</p> <p>23 A. I don't remember the name. We have a</p> <p>24 Diversity, Equity and Inclusion section to our</p> <p>25 website, and our annual report is posted there.</p>	<p style="text-align: right;">65</p> <p>1 period -- that period of time?</p> <p>2 MR. DOWER: Objection;</p> <p>3 form.</p> <p>4 MR. NOTZON: Well, that's</p> <p>5 a good -- that's a good objection</p> <p>6 because I don't know what I'm</p> <p>7 talking about.</p> <p>8 BY MR. NOTZON:</p> <p>9 Q. Did that diversity report, has that</p> <p>10 been going the entire time that you've been the</p> <p>11 Dean, or did you implement it?</p> <p>12 A. I implemented it.</p> <p>13 Q. When?</p> <p>14 A. Our first report was -- came out last</p> <p>15 Fall.</p> <p>16 Q. Okay. So there's been one report?</p> <p>17 A. There's one report right now.</p> <p>18 Q. Okay. And is that under Professor</p> <p>19 Julien?</p> <p>20 A. Professor -- yes. She's now</p> <p>21 Associate Dean for Diversity and Inclusion,</p> <p>22 Christine Julien.</p> <p>23 Q. That's -- that's under her</p> <p>24 responsibilities?</p> <p>25 A. That was under her responsibilities</p>

<p>66</p> <p>1 to prepare the report.</p> <p>2 Q. Okay.</p> <p>3 A. And she also is changing the format,</p> <p>4 so it will be a different report when it is</p> <p>5 released next year, next Fall.</p> <p>6 Q. And how long has she been in that</p> <p>7 position?</p> <p>8 A. She's in her second year.</p> <p>9 Q. Okay. So did she culminate her first</p> <p>10 year with that report?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And that -- that was your idea</p> <p>13 to have her do that report after she took over</p> <p>14 that position?</p> <p>15 A. Yes. We had a committee, and without</p> <p>16 having, I guess, a -- a clear meter it was -- it</p> <p>17 was languishing. We weren't getting -- it -- it</p> <p>18 took a lot of time, and so Christine needed to be</p> <p>19 able to devote time to it, so she was very, very</p> <p>20 successful in -- in getting that report done.</p> <p>21 Q. Was creating the position that she's</p> <p>22 in and writing the report your idea, or is this</p> <p>23 something that's going on in the Colleges across</p> <p>24 UT that you have adopted to incorporate into the</p> <p>25 School of Engineering?</p>	<p>68</p> <p>1 A. Michele Meyer, our Assistant Dean for</p> <p>2 Engineering Student Services was nominally</p> <p>3 chairing a committee. It focused mainly on</p> <p>4 students.</p> <p>5 Q. I -- I think -- I think you're</p> <p>6 misunderstanding my question because I didn't ask</p> <p>7 a good question.</p> <p>8 Outside of the School of Engineering</p> <p>9 was --</p> <p>10 A. Oh.</p> <p>11 Q. -- the focus of my question. Would</p> <p>12 that -- did anybody have a role like Christine</p> <p>13 Julien and a report outside of the School of</p> <p>14 Engineering prior to --</p> <p>15 A. Yes.</p> <p>16 Q. -- her starting that job?</p> <p>17 A. Yes.</p> <p>18 Q. And -- and which School are you aware</p> <p>19 of and did you use those examples to form the</p> <p>20 Julien position and the report?</p> <p>21 A. I think the College of Fine Arts was</p> <p>22 one of the first to have a -- a report. I looked</p> <p>23 at that, but that was not the basis for how we</p> <p>24 did it.</p> <p>25 I don't remember looking at reports</p>
<p>67</p> <p>1 A. I think it's a combination of both,</p> <p>2 but the -- some Schools have -- have individuals</p> <p>3 in that position; some Schools don't.</p> <p>4 But I did make the decision that I</p> <p>5 thought it was best practices to have some -- to</p> <p>6 have the position, and then I also thought it was</p> <p>7 important to have -- to be able to report on our</p> <p>8 progress and any issues that arise so that</p> <p>9 it's -- it's transparent to the members of our</p> <p>10 community.</p> <p>11 Q. I don't know that I got an answer to</p> <p>12 the other part of the question, which is what's</p> <p>13 going on outside of the School of Engineering</p> <p>14 and -- and whether that activity in the other</p> <p>15 Schools influenced you --</p> <p>16 A. So I mentioned that --</p> <p>17 Q. -- at the University.</p> <p>18 A. -- some Schools have someone in this</p> <p>19 position and some Schools don't, so that the</p> <p>20 combination of just having discussions amongst</p> <p>21 all the Deans, it appeared that would be a best</p> <p>22 practice.</p> <p>23 Q. Who was doing it before you?</p> <p>24 A. Before Christine was appointed?</p> <p>25 Q. Sure.</p>	<p>69</p> <p>1 from other Schools or Colleges, although we had</p> <p>2 conversations at Dean's Council about it.</p> <p>3 So I honestly can't tell you which</p> <p>4 ones do and don't have it. There are 18 Schools</p> <p>5 and Colleges, and I -- I don't know the</p> <p>6 administrative structure for all of them.</p> <p>7 Q. Are any other STEM colleges doing it?</p> <p>8 A. I know that Natural Sciences has</p> <p>9 someone in -- in this position. I don't think</p> <p>10 they have the same title. And I do not know what</p> <p>11 the Jackson School is doing.</p> <p>12 Q. Okay. Would you say that of the STEM</p> <p>13 Colleges that Engineering is the first to</p> <p>14 formalize the diversity position and to have a</p> <p>15 report?</p> <p>16 A. No. I believe Natural Sciences --</p> <p>17 well, I believe Natural Sciences had a position</p> <p>18 before us, but I do not know if they had a</p> <p>19 report.</p> <p>20 Q. Okay. Or how long they've had a</p> <p>21 report?</p> <p>22 A. Right.</p> <p>23 Q. Okay. Do you -- does Julien have any</p> <p>24 dotted-line communications or reporting to the</p> <p>25 University Office of Inclusion and Equity?</p>

<p style="text-align: right;">70</p> <p>1 A. They have a committee, just as we</p> <p>2 have a Dean's Council, so there is a group of</p> <p>3 these diversity and inclusion officers, and she</p> <p>4 participates in those.</p> <p>5 Q. That's a way to get best practices</p> <p>6 spread out across the University?</p> <p>7 A. That's correct.</p> <p>8 Q. And do you see all of this happening</p> <p>9 since when? Since 2019? 2018?</p> <p>10 MR. DOWER: Objection;</p> <p>11 form.</p> <p>12 A. So when -- when Dr. McInnis started</p> <p>13 as our Provost we started having more</p> <p>14 conversations about -- let me take a step back</p> <p>15 here.</p> <p>16 I mean, there wasn't -- when Dr.</p> <p>17 McInnis started as our Provost, we had more</p> <p>18 conversations in Dean's Council about these types</p> <p>19 of topics.</p> <p>20 BY MR. NOTZON:</p> <p>21 Q. Okay. But your decision to make the</p> <p>22 position for Professor Julien was in the academic</p> <p>23 year '19/'20 or '20/'21? No, '19/'20.</p> <p>24 A. I think we made the decision in</p> <p>25 '18/'19 because her appointment was effective</p>	<p style="text-align: right;">72</p> <p>1 was our Chief Communications Officer.</p> <p>2 Q. So when you were saying "we," you're</p> <p>3 pretty much talking about you and -- is it Dr.</p> <p>4 Speitel?</p> <p>5 A. Yes.</p> <p>6 Q. "Speitel" or "Speitel"?</p> <p>7 A. "Speitel."</p> <p>8 Q. All right. You have the benefit of a</p> <p>9 easily pronounceable name, so you've probably</p> <p>10 never had a problem with it.</p> <p>11 Okay. Oh, while we're on Mr.</p> <p>12 Speitel -- or Dr. -- it's Dr. Speitel, right?</p> <p>13 A. Yes.</p> <p>14 Q. All right. Did you inherit him or</p> <p>15 did you hire him into that group?</p> <p>16 A. He -- both Jerry Speitel and John</p> <p>17 Ekerdt served in their roles as Associate Deans</p> <p>18 with Greg Fennes, and then they -- they continued</p> <p>19 as I've been -- when I took the position in the</p> <p>20 Dean position.</p> <p>21 Q. Okay. You had the chance to hire</p> <p>22 your own, but you chose to keep them?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. Does Dr. Speitel also have a</p> <p>25 faculty role?</p>
<p style="text-align: right;">71</p> <p>1 September of 2019.</p> <p>2 Q. Okay. And when you say "we," who's</p> <p>3 "we" made the decision?</p> <p>4 A. Well, amongst -- I use the "we" to</p> <p>5 refer to the Leadership Team within the -- the</p> <p>6 School, but it -- it was my decision.</p> <p>7 Q. Who is on the Leadership Team that</p> <p>8 made the decision in I guess the Spring of '19?</p> <p>9 A. Or Summer. I -- I don't remember the</p> <p>10 details. So Jerry Speitel, who's the Associate</p> <p>11 Dean for Academic Affairs, he and I have had many</p> <p>12 conversations about the leadership structure of</p> <p>13 the -- the Cockrell School, and so I -- I made</p> <p>14 sure that I get the opinions from Jerry and then</p> <p>15 there are other members of the Leadership Team.</p> <p>16 I mentioned Michele Meyer. She's the</p> <p>17 Assistant Dean for Engineering Services. I -- I</p> <p>18 believe she had a role in this, too.</p> <p>19 The other members, I'm not sure I</p> <p>20 asked them directly. That would be John Ekerdt,</p> <p>21 Associate Dean for Research, Eric Meyer, who's an</p> <p>22 Assistant Dean for Continuing Education, --</p> <p>23 Q. Are they related?</p> <p>24 A. No. -- Chris Higgins, who's our</p> <p>25 chief Development Officer, and Pat Wiseman, who's</p>	<p style="text-align: right;">73</p> <p>1 A. Yes.</p> <p>2 Q. Does he teach?</p> <p>3 A. I don't remember the last time he</p> <p>4 taught. I know he's taught occasionally since</p> <p>5 I've been Dean, but he does not teach regularly.</p> <p>6 Q. Does he have a re -- research</p> <p>7 program?</p> <p>8 A. He still maintains some -- he still</p> <p>9 has research meetings, yes, so...</p> <p>10 Q. Do you know what kind of funding he</p> <p>11 has?</p> <p>12 A. I do not know his funding, no.</p> <p>13 Q. Do you know what his funding source</p> <p>14 is?</p> <p>15 A. I do not.</p> <p>16 Q. Do you know the last time he got</p> <p>17 funding?</p> <p>18 A. I do not.</p> <p>19 Q. Would you consider Dr. Speitel an</p> <p>20 advisor?</p> <p>21 A. I do.</p> <p>22 Q. Does he assist you in writing any</p> <p>23 documents that you might need?</p> <p>24 MR. DOWER: Objection;</p> <p>25 form.</p>

<p style="text-align: right;">74</p> <p>1 A. There are some cases of documents 2 that he writes and some where I have full 3 responsibility. 4 BY MR. NOTZON: 5 Q. Does he provide you with drafts for 6 you to then edit and send out or -- or -- or is 7 it -- well, I'll leave that question there. 8 A. Yes. So any document where -- where 9 it's about the budget, about enrollment, anything 10 related to finances, he will always provide 11 information and -- and often write a draft, and 12 then we will work on it together to where we 13 believe we're ready to submit it to the Provost's 14 Office. 15 Q. So you consider him a close advisor? 16 MR. DOWER: Objection; 17 form. 18 A. I do. As I consider all members of 19 the Leadership Team to be close advisors. 20 BY MR. NOTZON: 21 Q. Does anybody else write for you, as 22 well, besides Dr. Speitel? 23 A. My Communications Officer -- or Chief 24 Communications Officer often will write drafts, 25 prepare presentations. It's all drafts.</p>	<p style="text-align: right;">76</p> <p>1 advantage. 2 BY MR. NOTZON: 3 Q. Please give me an example of each. 4 And -- and I'd ask you to give me your worst 5 example and your best example respectively. 6 A. All right. The best example was 7 early in my career I was invited to participate 8 in a number of workshops -- international 9 workshops because there was an interest in having 10 diversity. 11 And I think this -- it was a great 12 preparation for me in my career and it gave me 13 opportunities that I would -- that male 14 colleagues who were at my same level did not 15 have. 16 Disadvantages probably -- 17 Q. Just to follow up on that -- that 18 advantage, what you're saying is had you not been 19 a -- one of very few women while they were trying 20 to increase the exposure and experience of women, 21 you may not have been selected for that role? 22 A. That is correct. 23 Q. Okay. All right. And I'm sorry, go 24 ahead with your worst case. 25 A. I think the -- the negative is that</p>
<p style="text-align: right;">75</p> <p>1 Occasionally the Chief Development 2 Officer will write draft emails. They -- their 3 office develops all the letters that go to donors 4 that I sign. 5 John Ekerdt and I are frequently 6 communicating about information that's going 7 to -- specifically related to researchers and the 8 Directors of Research Centers. 9 Christine doesn't actually draft for 10 me, but certainly she has -- we -- we -- I 11 reviewed the report that we mentioned earlier 12 before it was published. 13 Q. Does Dr. Speitel ever help you write 14 tenure and promotion evaluations? 15 A. No. 16 Q. From your personal experience, either 17 as a student, a faculty member, or an 18 administrator, have you ever felt like you've 19 been discriminated against because of your 20 gender? 21 MR. DOWER: Objection; 22 form. 23 A. I believe in certain cases being a 24 woman has been a disadvantage to me, but I 25 believe in other cases being a woman has been an</p>	<p style="text-align: right;">77</p> <p>1 many times people dis -- people assume the only 2 reason you were there was because you were a 3 token woman and that you had to -- you had to 4 demonstrate that you were there because of your 5 technical knowledge. 6 Q. Okay. So would -- would it be 7 accurate to say that perhaps the worst experience 8 that you had being discriminated against is the 9 unknown factor of whether or not people are 10 looking at you as a token or whether you've 11 earned your right to be there in their minds? 12 A. I'm not sure I ever thought of it 13 that way. 14 Q. Okay. So when -- you're saying the 15 worst one was that you were actually told that 16 you were thought of as a token? 17 A. Yes. 18 Q. Okay. Did that introduce into your 19 mind that, "Oh, my God. Who else is thinking 20 that I'm the token"? 21 A. You know, you're asking me to 22 remember something that happened 35 years ago, so 23 I cannot remember my state of mind. I'm really 24 sorry. 25 Q. No, that's okay.</p>

<p style="text-align: right;">78</p> <p>1 Did that cause you to try to be the</p> <p>2 best so that there would be no question that</p> <p>3 you're not just a token?</p> <p>4 A. Yes.</p> <p>5 Q. You felt like you had to -- to meet</p> <p>6 some standard that would be undeniable to the</p> <p>7 people observing that there would be no question</p> <p>8 about your competency?</p> <p>9 A. I feel I always need to be my best.</p> <p>10 Q. Yeah, but not because you want to be</p> <p>11 your best, but because other people might think</p> <p>12 you're a token if you weren't?</p> <p>13 MR. DOWER: Objection;</p> <p>14 form.</p> <p>15 A. I -- what I've realized in my life is</p> <p>16 that I can't worry about what other people think</p> <p>17 about me.</p> <p>18 I need to be the best that I can be</p> <p>19 and be pleased with myself, and that's how I</p> <p>20 approach it.</p> <p>21 BY MR. NOTZON:</p> <p>22 Q. I understand.</p> <p>23 A. And I -- I try not to internalize if</p> <p>24 there are negative comments that appear to be</p> <p>25 related only to my gender, and I -- I believe I</p>	<p style="text-align: right;">80</p> <p>1 a victim of gender discrimination given what you</p> <p>2 know about the data related to women and STEM?</p> <p>3 A. It is possible.</p> <p>4 Q. Have you ever accused anybody of</p> <p>5 treating you differently because you're a woman?</p> <p>6 A. Not to my recollection.</p> <p>7 Q. Okay. Has anybody ever accused you</p> <p>8 of gender discrimination?</p> <p>9 A. No.</p> <p>10 MR. DOWER: Objection;</p> <p>11 form.</p> <p>12 BY MR. NOTZON:</p> <p>13 Q. Do you understand that you're being</p> <p>14 accused of gender discrimination in this case?</p> <p>15 A. I'm sorry. I was not -- right. I</p> <p>16 was -- yeah. Yes, Dr. Nikolova is accusing me of</p> <p>17 gender discrimination.</p> <p>18 Q. And pregnancy discrimination?</p> <p>19 A. And pregnancy discrimination, yes.</p> <p>20 Q. Which arguably would be a subset?</p> <p>21 A. Right.</p> <p>22 Q. Undeniably would be a subset?</p> <p>23 A. Right.</p> <p>24 MR. DOWER: Objection;</p> <p>25 form.</p>
<p style="text-align: right;">79</p> <p>1 do my best.</p> <p>2 Q. Have you always done that, or is that</p> <p>3 the benefit of reaching the -- the wonderful age</p> <p>4 of 60 and looking back?</p> <p>5 MR. DOWER: Objection;</p> <p>6 form.</p> <p>7 A. I believe I've approached that my</p> <p>8 whole life. I have not worried too much about</p> <p>9 what other people think about me.</p> <p>10 BY MR. NOTZON:</p> <p>11 Q. So when you say that worst experience</p> <p>12 happened, that only happened one time?</p> <p>13 A. No. There were multiple cases.</p> <p>14 Q. Okay. And -- and when you say "worst</p> <p>15 experience," that's the worst experience you know</p> <p>16 of, correct?</p> <p>17 A. Yes.</p> <p>18 Q. Would you agree that you don't</p> <p>19 necessarily know if you've been the victim of</p> <p>20 gender discrimination in every potential case</p> <p>21 that might have been part of your journey through</p> <p>22 Engineering?</p> <p>23 A. I don't believe it's possible to know</p> <p>24 that.</p> <p>25 Q. And it is possible that you have been</p>	<p style="text-align: right;">81</p> <p>1 BY MR. NOTZON:</p> <p>2 Q. Okay. And given that you're a woman,</p> <p>3 do you understand how Dr. Nikolova can accuse you</p> <p>4 of gender discrimination?</p> <p>5 MR. DOWER: Objection;</p> <p>6 form.</p> <p>7 A. I have read Dr. Nikolova's</p> <p>8 statements, and I believe I can understand her</p> <p>9 opinion.</p> <p>10 BY MR. NOTZON:</p> <p>11 Q. Okay. And my -- my question is more</p> <p>12 on the, I don't know, I might say theoretical</p> <p>13 side, but do you understand that a woman can</p> <p>14 discriminate against a woman because of her</p> <p>15 gender?</p> <p>16 MR. DOWER: Objection;</p> <p>17 form.</p> <p>18 A. I believe that a woman can</p> <p>19 discriminate against a woman or against a man for</p> <p>20 gender discrimination.</p> <p>21 BY MR. NOTZON:</p> <p>22 Q. Okay. I just wanted to -- some</p> <p>23 people might not think that that's possible, and</p> <p>24 I just wanted to know if you felt that way. But</p> <p>25 you don't. Okay.</p>



<p style="text-align: right;">82</p> <p>1 From your understanding of -- of the</p> <p>2 faculty at the School of Engineering, would you</p> <p>3 say that there are more or less women present on</p> <p>4 the faculty than when you started?</p> <p>5 A. When I started as a faculty member or</p> <p>6 when I started as Dean?</p> <p>7 Q. Dean.</p> <p>8 A. There are more.</p> <p>9 Q. Okay. And -- and could you tell us</p> <p>10 how many more?</p> <p>11 A. I would have to check my notes. I</p> <p>12 don't have that on the top of my head.</p> <p>13 Q. Okay. More in terms of tenure-track</p> <p>14 and tenure, or just tenure, or do you know?</p> <p>15 A. I believe it's in both -- in -- in</p> <p>16 all ranks, there are more women than there were</p> <p>17 when I started as Dean.</p> <p>18 Q. Okay. And when you say "all ranks,"</p> <p>19 you're talking about the three, Assistant,</p> <p>20 Associate, and full?</p> <p>21 A. Correct. We also have more women as</p> <p>22 Department Chairs than when I started.</p> <p>23 Q. Okay. And did -- did you play any</p> <p>24 role in that?</p> <p>25 A. Yes. Well, I -- there are search</p>	<p style="text-align: right;">84</p> <p>1 University might consider you as -- given that</p> <p>2 you're a woman, that you may be benefitting</p> <p>3 women?</p> <p>4 MR. DOWER: I'm going to</p> <p>5 object to form. Go ahead.</p> <p>6 A. To my knowledge, no one has -- has --</p> <p>7 or to my -- based on my memory, no one has</p> <p>8 brought that up to me, and --</p> <p>9 BY MR. NOTZON:</p> <p>10 Q. That's not my question, though.</p> <p>11 A. I know. Am I concerned that people</p> <p>12 might think that I'm favoring women?</p> <p>13 Q. Yeah.</p> <p>14 A. I would say no.</p> <p>15 Q. Okay.</p> <p>16 A. And I -- I mentioned before, that</p> <p>17 people's views of me are not what guide my</p> <p>18 decisions.</p> <p>19 Q. So back when you were telling the</p> <p>20 story of being concerned that somebody might view</p> <p>21 you as a token, that -- that was just something</p> <p>22 that happened in the past, and that no longer</p> <p>23 happens anymore?</p> <p>24 MR. DOWER: Objection;</p> <p>25 form.</p>
<p style="text-align: right;">83</p> <p>1 committees who would submit a list of unranked</p> <p>2 candidates to me, and then I made the selection</p> <p>3 who the Department Chair is based on what I</p> <p>4 believe their qualifications are.</p> <p>5 Q. Okay. It's your decision?</p> <p>6 A. It -- it is.</p> <p>7 Q. Are you ever --</p> <p>8 A. I have to get approval from the</p> <p>9 Provost, but I -- it is -- my recommendation is</p> <p>10 approved, yes.</p> <p>11 Q. Have any of your recommendations been</p> <p>12 reversed by the Provost on selecting a Department</p> <p>13 Chair at all?</p> <p>14 A. No, no.</p> <p>15 Q. Do you ever have a concern as a</p> <p>16 female administrator that you may be perceived as</p> <p>17 shading toward female?</p> <p>18 A. That is not -- I'm sorry, you said --</p> <p>19 you said a word "something for female," and what</p> <p>20 was that word?</p> <p>21 Q. "Shading," or, you know, benefitting,</p> <p>22 put -- putting your finger on the scale.</p> <p>23 Have you ever -- are you ever</p> <p>24 concerned that outside observers, whoever they</p> <p>25 may be, above you, below you, outside of the</p>	<p style="text-align: right;">85</p> <p>1 A. Unfortunately, it still happens</p> <p>2 occasionally.</p> <p>3 BY MR. NOTZON:</p> <p>4 Q. That's why I asked the question.</p> <p>5 If -- if somebody will view you as a</p> <p>6 token, somebody might also view you as</p> <p>7 benefitting women.</p> <p>8 MR. DOWER: Objection;</p> <p>9 form.</p> <p>10 A. You asked -- you asked me if I cared.</p> <p>11 BY MR. NOTZON:</p> <p>12 Q. I didn't say "cared"; I said "Do you</p> <p>13 feel."</p> <p>14 A. "Do I feel." I apologize.</p> <p>15 Do I feel that someone from the</p> <p>16 outside may think I'm pro women?</p> <p>17 Q. Benefitting women.</p> <p>18 A. Benefitting women.</p> <p>19 MR. DOWER: I'll go ahead</p> <p>20 and object to form.</p> <p>21 A. I -- I do not feel that way.</p> <p>22 BY MR. NOTZON:</p> <p>23 Q. Okay. So when you feel that you</p> <p>24 might still be perceived as a token, when has</p> <p>25 that occurred recently?</p>

<p style="text-align: right;">86</p> <p>1 A. I was attending a football game as --</p> <p>2 at a donor's suite, and I was introduced to</p> <p>3 someone from outside -- another individual at the</p> <p>4 suite who was not an engineer, who was surprised</p> <p>5 that there was a female Dean -- or a woman who</p> <p>6 was Dean of Engineering.</p> <p>7 Q. And that surprise could be genuine</p> <p>8 given the -- the whole dearth issue, but it also</p> <p>9 could be raising the question of tokenism, right?</p> <p>10 MR. DOWER: Objection;</p> <p>11 form.</p> <p>12 BY MR. NOTZON:</p> <p>13 Q. That's what you're thinking?</p> <p>14 MR. DOWER: Objection;</p> <p>15 form.</p> <p>16 A. I don't know what motivated this</p> <p>17 individual to ask the question. I'm sorry.</p> <p>18 BY MR. NOTZON:</p> <p>19 Q. No, I know you don't. I'm just</p> <p>20 saying that was in your mind, is it could --</p> <p>21 could be one or the other, but they didn't</p> <p>22 explain and you didn't explore?</p> <p>23 A. I did not explore and they did not</p> <p>24 explain, you are correct.</p> <p>25 Q. And this was a man?</p>	<p style="text-align: right;">88</p> <p>1 going to be shifting gears here,</p> <p>2 all right?</p> <p>3 MR. DOWER: That sounds</p> <p>4 great.</p> <p>5 THE COURT REPORTER: We're</p> <p>6 going off the record at 10:51 a.m.</p> <p>7 (Recess held from 10:51 a.m. to 11:04 a.m.)</p> <p>8 THE COURT REPORTER: And</p> <p>9 we're going back on the record at</p> <p>10 11:04 a.m.</p> <p>11 MR. NOTZON: And you're</p> <p>12 on, Bob?</p> <p>13 MR. SCHMIDT: And we</p> <p>14 are on recording.</p> <p>15 MR. NOTZON: Okay.</p> <p>16 BY MR. NOTZON:</p> <p>17 Q. So Dean Wood, I just want to follow</p> <p>18 up on a couple of questions.</p> <p>19 Are you aware of any investigation</p> <p>20 that was conducted as a result of Dr. Nikolova's</p> <p>21 complaints?</p> <p>22 A. Dr. Nikolova submitted a CCAFR</p> <p>23 complaint, or complained to CCAFR, and so there</p> <p>24 was an investigation that they completed. That</p> <p>25 report went to President Fenves.</p>
<p style="text-align: right;">87</p> <p>1 A. Yes, it was.</p> <p>2 Q. Would you have felt the same if a</p> <p>3 woman had expressed surprise?</p> <p>4 A. Most of the time -- or any instances</p> <p>5 I'm remembering right now, a woman has been very</p> <p>6 complimentary and saying, "It's great you're in</p> <p>7 this position. It's -- it's a long time coming</p> <p>8 to have a woman in a leadership role like this."</p> <p>9 So their intent was clear, and I</p> <p>10 didn't have to wonder about their intent.</p> <p>11 Q. So let me ask it a little bit</p> <p>12 differently, then, because I don't think that</p> <p>13 answers the question I asked, but I appreciate</p> <p>14 the clarification.</p> <p>15 If a woman had said what the guy said</p> <p>16 in that box at the football game without</p> <p>17 elaboration, would you have felt the same</p> <p>18 potential tokenism concern?</p> <p>19 MR. DOWER: Objection;</p> <p>20 form.</p> <p>21 A. If a woman had said exactly what the</p> <p>22 man -- man said to me, I would have felt the same</p> <p>23 way.</p> <p>24 MR. NOTZON: Let's go</p> <p>25 ahead and take a short break. I'm</p>	<p style="text-align: right;">89</p> <p>1 Q. Any other investigation?</p> <p>2 A. That's the only investigation I know</p> <p>3 of.</p> <p>4 Q. Okay. Do you understand that the</p> <p>5 CCAFR Committee did or did not look at</p> <p>6 investigating gender or pregnancy discrimination</p> <p>7 issues?</p> <p>8 A. I don't believe it's within their</p> <p>9 purview. I believe their purview is directly</p> <p>10 related to the promotion and tenure process.</p> <p>11 If Dr. Nikolova had made another</p> <p>12 complaint to the University, then another group</p> <p>13 would have done the investigation, such as Office</p> <p>14 of Equity and Inclusion, and then they would have</p> <p>15 asked me to -- they would have -- they would have</p> <p>16 engaged me to -- as part of their investigation.</p> <p>17 Q. So you're not aware of that</p> <p>18 occurring?</p> <p>19 A. To -- to my knowledge -- I have not</p> <p>20 been contacted by them.</p> <p>21 Q. Okay. Have there been any</p> <p>22 investigations into discrimination by OIE or any</p> <p>23 other organization at UT within the School of</p> <p>24 Engineering since you've been the Dean?</p> <p>25 A. Yes.</p>

<p>90</p> <p>1 Q. Could you just generally describe 2 them without going into great detail, the basis 3 of the -- the complaint and the -- the year and 4 the College.</p> <p>5 A. So the one I'm remembering most 6 frequent -- most fairly comes to my head was 7 reported in the "Austin American Statesman" in I 8 believe the Fall.</p> <p>9 We had a Research Professor and 10 Emeritus Professor who a staff member had a 11 complaint against, and there was a finding 12 against that individual, and he was -- he was 13 prohibited from ever being employed by the 14 University again; he was prohibited from having 15 an office on campus.</p> <p>16 Q. Was this gender or sexual harassment? 17 A. It fell under the broad sexual 18 harassment policy.</p> <p>19 Q. Okay.</p> <p>20 A. The University changed its policy 21 very recently, but it fell under the older sexual 22 harassment policy.</p> <p>23 Q. Okay. And any other complaints/ 24 investigations that you're aware of since you've 25 been there?</p>	<p>92</p> <p>1 student ones were handled a different way than 2 the -- the faculty ones.</p> <p>3 Oh, we had -- we had a staff member 4 who was -- his employment was terminated because 5 he did kiss another staff member in a breakroom.</p> <p>6 Q. Okay.</p> <p>7 A. So to -- to the best of my knowledge, 8 that is -- that's what I remember.</p> <p>9 Q. And that first one didn't have an 10 investigation because it didn't rise to that 11 level and you -- you just spoke to the faculty 12 member and it was taken care of?</p> <p>13 A. There was an investigation that went 14 through the University processes but there was 15 not a finding.</p> <p>16 Q. Oh.</p> <p>17 A. And so then the resolution was me 18 talking with the faculty member, correct.</p> <p>19 Q. All right. And back to I'd asked a 20 question about whether or not you'd done 21 proactive things to prevent discrimination in the 22 workplace, and you had given a list of the 23 questions to provide on interviews and the annual 24 training.</p> <p>25 Is there anything else that you do in</p>
<p>91</p> <p>1 MR. DOWER: Objection; 2 form.</p> <p>3 A. I -- I wouldn't -- I would have to 4 hypothesize or guess that we might have one or 5 two cases a year. That was the only case I can 6 recall -- I'm sorry. Let me take a step back.</p> <p>7 I can remember -- there have been 8 complaints -- some complaints come in through the 9 anonymous hotline, so the investigation system a 10 slightly different.</p> <p>11 There was I believe one faculty 12 member, a -- a complaint by a graduate student 13 that did not rise to the level of harassment. I 14 believe gender was a component of it. I did have 15 to advise a faculty member that he needed to be 16 much more careful.</p> <p>17 There was a complaint by a post-Doc 18 who left the position early. That was 19 investigated. I do not remember what the finding 20 was. I think -- I don't remember if there was a 21 finding or not. I remember the investigation.</p> <p>22 I remember investigation about a -- a 23 TA that had -- against female student.</p> <p>24 So those are the only ones that I 25 specifically remember in my eight years, and the</p>	<p>93</p> <p>1 the School of Engineering to try to avoid 2 discrimination?</p> <p>3 MR. DOWER: Objection; 4 form.</p> <p>5 A. One of the things that has been 6 happening lately, and I'd say in the past two or 7 three years, is we've been having different types 8 of months to celebrate.</p> <p>9 So February is Black History Month, 10 and then there's a month for Hispanics and Lat -- 11 I don't remember the term. I'm sorry.</p> <p>12 So we've been having days to 13 celebrate that to try to build community. We've 14 had another one devoted to Asian-Pacific Islander 15 heritage. So those are things that we've been 16 trying to do to build community.</p> <p>17 We have a very longstanding --</p> <p>18 MR. DOWER: Isn't it --</p> <p>19 THE WITNESS: I'm --</p> <p>20 I'm sorry?</p> <p>21 MR. DOWER: Isn't it women 22 this month?</p> <p>23 THE WITNESS: I believe it 24 is.</p> <p>25 A. We have a -- I was going to say we</p>

<p style="text-align: right;">94</p> <p>1 have a very longstanding "Women in Engineering"</p> <p>2 program, and so they have a number of different</p> <p>3 programs that they run throughout the year, but I</p> <p>4 think this is -- they have some special things</p> <p>5 for this month.</p> <p>6 But to be honest, those are -- those</p> <p>7 are delegated to individual staff members, so</p> <p>8 that does not rise to my level to do the planning</p> <p>9 for those events.</p> <p>10 (Zoom vidoconferencing distortion.)</p> <p>11 MR. DOWER: Robert,</p> <p>12 you're freezing up at least on my</p> <p>13 end. We may need to, you know,</p> <p>14 log out and log back in.</p> <p>15 THE WITNESS: I'm sorry.</p> <p>16 I could not hear the question.</p> <p>17 MR. DOWER: Do we want</p> <p>18 to go off the record for a second</p> <p>19 and help Robert with his issue?</p> <p>20 MR. SCHMIDT: Yes,</p> <p>21 let's go off the record.</p> <p>22 THE COURT REPORTER: We're</p> <p>23 going off the record at 11:12 a.m.</p> <p>24 (Recess held from 11:12 a.m. to 11:22 a.m.)</p> <p>25 THE COURT REPORTER: We</p>	<p style="text-align: right;">96</p> <p>1 if I can pronounce the last name.</p> <p>2 A. There were a number of complaints</p> <p>3 from Nuria and -- and her husband, yes, and also</p> <p>4 the students associated with it, yes.</p> <p>5 Q. And -- and what were the -- who was</p> <p>6 the complaint against?</p> <p>7 A. There were multiple complaints.</p> <p>8 There were complaints against her; she made</p> <p>9 complaints. I would have to check my notes to</p> <p>10 really keep track of everything because it was so</p> <p>11 complicated.</p> <p>12 Q. Okay. Did anybody in the group of</p> <p>13 people complaining complain about you?</p> <p>14 A. Not to my knowledge, because I was</p> <p>15 never asked to -- I was -- my participation in</p> <p>16 the investigation was -- I was not in -- I was</p> <p>17 not asked to -- to speak as part of the</p> <p>18 investigation, does that make sense?</p> <p>19 I only dealt with -- I did not deal</p> <p>20 with the investigators directly, I only dealt</p> <p>21 with the Provost's Office, so I do not believe</p> <p>22 that there was a complaint against me. At least</p> <p>23 I -- I was never aware of one.</p> <p>24 Q. In other words, you weren't</p> <p>25 interviewed as a person with knowledge of -- of</p>
<p style="text-align: right;">95</p> <p>1 are back on the record at 11:22 a.m.</p> <p>2 BY MR. NOTZON:</p> <p>3 Q. Okay. Dean Wood, technical</p> <p>4 difficulties, but we're -- we're persevering.</p> <p>5 Is there anything else that you do to</p> <p>6 avoid or prevent discrimination in the workplace?</p> <p>7 MR. DOWER: Objection;</p> <p>8 form.</p> <p>9 A. So I -- I think we talk -- I'm sorry.</p> <p>10 Any time something comes up at Dean's Council</p> <p>11 that it is important to share with the Department</p> <p>12 Chairs, I make sure that we discuss it with them,</p> <p>13 and then we have other things that we talk about</p> <p>14 every year related to, you know, discrimination</p> <p>15 or policies that -- that we might -- that we talk</p> <p>16 about, just to make sure that all the Department</p> <p>17 Chairs are reminded of those facts.</p> <p>18 BY MR. NOTZON:</p> <p>19 Q. Okay.</p> <p>20 A. I think our -- a lot of our concern</p> <p>21 is on search committees, and so there are</p> <p>22 specific training and antibias training for --</p> <p>23 for faculty search committees.</p> <p>24 Q. Was there ever a complaint from a</p> <p>25 person named Nuria Gonzalez -- and I don't know</p>	<p style="text-align: right;">97</p> <p>1 relevant facts?</p> <p>2 A. Correct.</p> <p>3 Q. And -- and her husband's name is</p> <p>4 Robert Heath?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And -- and how do you</p> <p>7 pronounce her last name?</p> <p>8 A. I would have to look at it to -- I'm</p> <p>9 not sure I actually know how to pronounce --</p> <p>10 pronounce it or spell it off the top of my head.</p> <p>11 I'd have to look it up.</p> <p>12 Q. Okay. And did that end up with</p> <p>13 the -- the two of them, Professor Heath and --</p> <p>14 and his -- is Nuria also a Professor, as well?</p> <p>15 A. She was in a Research Professor role</p> <p>16 at the time.</p> <p>17 Q. Okay. Did they leave UT?</p> <p>18 A. They did leave UT.</p> <p>19 Q. Okay.</p> <p>20 A. And she was offered tenure or a</p> <p>21 tenure-track position at NC State, which is</p> <p>22 where -- so they both got tenure or tenure-track</p> <p>23 positions at NC State.</p> <p>24 Q. Okay. And Professor Heath was a full</p> <p>25 Professor in PCQ here at UT?</p>

<p style="text-align: right;">98</p> <p>1 A. That is correct.</p> <p>2 Q. Okay.</p> <p>3 A. So I do know that police investigated</p> <p>4 complaints she had against the graduates and the</p> <p>5 police did investigate, so it wasn't just the --</p> <p>6 the UTPD investigated in addition to the office</p> <p>7 of Equity and Inclusion.</p> <p>8 Q. Okay. So there was an alleged crime</p> <p>9 in -- in -- in addition to an interpersonal</p> <p>10 relationship?</p> <p>11 A. There were many different</p> <p>12 allegations, yes, and she did engage UTPD, right.</p> <p>13 Q. Okay. And -- and you're saying --</p> <p>14 was that one of the four that you were talking</p> <p>15 about from before?</p> <p>16 A. No, I'm sorry. I'd forgotten that</p> <p>17 one.</p> <p>18 Q. Okay. And to follow up, did -- are</p> <p>19 you aware if there were any findings either by</p> <p>20 the UTPD or OIE related to those series of</p> <p>21 complaints?</p> <p>22 A. There were concerns about violations</p> <p>23 of FERPA where student information was shared</p> <p>24 that should not have been shared.</p> <p>25 I don't know if it got to the point</p>	<p style="text-align: right;">100</p> <p>1 Q. Okay. '19/'20?</p> <p>2 Hello?</p> <p>3 A. Yes, '19/'20, yes.</p> <p>4 Q. I'm sorry. I -- I didn't know if I</p> <p>5 was going off again. Okay.</p> <p>6 MR. SCHMIDT: Just to</p> <p>7 correct you-all, it's 2020?</p> <p>8 THE WITNESS: Oh,</p> <p>9 wait. No, it was --</p> <p>10 MR. SCHMIDT: Not 1920.</p> <p>11 THE WITNESS: This is</p> <p>12 '20/'21 we're in right now.</p> <p>13 MR. SCHMIDT: Yeah.</p> <p>14 THE WITNESS: And we</p> <p>15 did it last year, so that would</p> <p>16 have been '19/'20.</p> <p>17 MR. SCHMIDT: 2020.</p> <p>18 MR. NOTZON: No,</p> <p>19 '19/'20.</p> <p>20 THE WITNESS: So</p> <p>21 2019 to 2020 --</p> <p>22 MR. SCHMIDT: There</p> <p>23 we go. I'm sorry. Yeah, yeah,</p> <p>24 yeah.</p> <p>25 MR. DOWER: For the</p>
<p style="text-align: right;">99</p> <p>1 of a finding and I think the fact that they both</p> <p>2 resigned may have stopped the investigations. I</p> <p>3 honestly don't know.</p> <p>4 Q. When you say "they both resigned,"</p> <p>5 you're talking about Nuria and her husband?</p> <p>6 A. Right.</p> <p>7 Q. Okay. Did the graduate student stay?</p> <p>8 A. So the graduate student -- there were</p> <p>9 four graduate students. What -- the graduate</p> <p>10 student who probably was the -- I would call the</p> <p>11 leader of the group did complete his Ph.D. with a</p> <p>12 different supervisor.</p> <p>13 Q. Okay. But you're not aware of the</p> <p>14 other three?</p> <p>15 A. I -- I know of at least one other is</p> <p>16 still here. I -- there could be two still here.</p> <p>17 Q. And were -- were they in ECE, as</p> <p>18 well?</p> <p>19 A. Everyone involved was in ECE, yes.</p> <p>20 Q. Earlier you mentioned the evaluation</p> <p>21 of faculty salaries that was done.</p> <p>22 Do you remember what year that was?</p> <p>23 A. I know we had a special review for</p> <p>24 equity last academic year, so that would have</p> <p>25 been in '19/'20.</p>	<p style="text-align: right;">101</p> <p>1 record, you're -- you're saying</p> <p>2 there should be a dash there.</p> <p>3 You're not giving the year -- in</p> <p>4 the Year of our Lord 1920;</p> <p>5 you're saying '19 dash or</p> <p>6 hyphen '20?</p> <p>7 THE WITNESS: That's</p> <p>8 right. The year 2019 dash 2020.</p> <p>9 MR. SCHMIDT: Okay.</p> <p>10 Thank you. I was -- I was</p> <p>11 just -- that's all I was doing.</p> <p>12 And Robert, I apologize. I</p> <p>13 didn't mean to interject.</p> <p>14 MR. NOTZON: Okay. The</p> <p>15 Dean and I knew what we were</p> <p>16 talking about.</p> <p>17 BY MR. NOTZON:</p> <p>18 Q. So on the faculty eval -- salary</p> <p>19 evaluation, were there any findings?</p> <p>20 A. This was not a formal investigation,</p> <p>21 so there would not -- not have been a possibility</p> <p>22 of findings.</p> <p>23 Q. Okay.</p> <p>24 A. The Provost asked us to look</p> <p>25 specifically at -- at our entire faculty and</p>

<p style="text-align: right;">102</p> <p>1 identify if there were equity issues.</p> <p>2 Q. Okay.</p> <p>3 A. We had some -- some that were -- some</p> <p>4 were men, some were women, and we -- we had to</p> <p>5 pull up funds that we could use to address them.</p> <p>6 Q. And who was in charge of that for the</p> <p>7 School of Engineering, the -- the identifying</p> <p>8 potential disparity issues?</p> <p>9 A. So we asked each Department Chair to</p> <p>10 look specifically at their Departments. I'm</p> <p>11 using "we" as Jerry and I, right? Because Jerry</p> <p>12 handled -- Jerry did all the background</p> <p>13 spreadsheets that were important to him.</p> <p>14 We -- Jerry and I also looked at them</p> <p>15 independently. Then we met with the Department</p> <p>16 Chairs, compared our lists, and eventually came</p> <p>17 to an agreement.</p> <p>18 Q. Okay. And did you identify any</p> <p>19 disparity issues in the School of Engineering</p> <p>20 salaries?</p> <p>21 A. We did find equity issues in the</p> <p>22 Cockrell School, yes.</p> <p>23 Q. Did you find any that were gender</p> <p>24 related?</p> <p>25 A. I mentioned we had some men and some</p>	<p style="text-align: right;">104</p> <p>1 out at that time?</p> <p>2 A. We would have, but because of COVID</p> <p>3 the merit goal was reduced to zero. So we were</p> <p>4 in a situation that there were only -- only some</p> <p>5 very specific raise -- raise goals that were</p> <p>6 available. One of them was related to this</p> <p>7 equity issue.</p> <p>8 Q. How much money was made available by</p> <p>9 the University for the School of Engineering for</p> <p>10 this diversity issue?</p> <p>11 A. I don't remember. I'd have to check</p> <p>12 my notes. Nor do I remember the total salary --</p> <p>13 the total of all the salaries in the Cockrell</p> <p>14 School.</p> <p>15 Q. And do you remember if there were</p> <p>16 more women than men that were adjusted based upon</p> <p>17 this review?</p> <p>18 A. I do not remember. I -- we -- we</p> <p>19 provide document -- spreadsheet documentation to</p> <p>20 the Provost's Office.</p> <p>21 Q. Okay.</p> <p>22 A. There were both men and women on the</p> <p>23 list.</p> <p>24 Q. Okay. But you -- you have no idea or</p> <p>25 no concept of the -- the relative quantities?</p>
<p style="text-align: right;">103</p> <p>1 women who were on this list.</p> <p>2 Q. Right. Did you find any issues where</p> <p>3 the females were being paid less than they maybe</p> <p>4 should have been based upon your analysis?</p> <p>5 A. Well, we would only give raises to</p> <p>6 individuals if they were being paid less, and we</p> <p>7 found some men and some women on the list --</p> <p>8 Q. So --</p> <p>9 A. -- that were included.</p> <p>10 Q. Okay. So it was a little of both</p> <p>11 that were on the underpaid side based upon your</p> <p>12 analysis?</p> <p>13 A. Correct.</p> <p>14 Q. And do you remember who they are?</p> <p>15 A. I would have to check my files. I</p> <p>16 don't know off the top of my head.</p> <p>17 Q. And that would be -- those -- those</p> <p>18 salaries would have been adjusted between last</p> <p>19 academic year and this academic year?</p> <p>20 A. Right. Those salary adjustments</p> <p>21 would have been in effect on September of 2020 --</p> <p>22 September 1st, 2020.</p> <p>23 Q. And you would have taken those</p> <p>24 adjustments at the same time as everybody's</p> <p>25 receiving whatever other raises were being doled</p>	<p style="text-align: right;">105</p> <p>1 A. I do not remember.</p> <p>2 Q. And you couldn't even say just more</p> <p>3 or less or equal? You just have no idea?</p> <p>4 MR. DOWER: Objection;</p> <p>5 form.</p> <p>6 A. I would not want to ha -- hazard a</p> <p>7 guess because this is a very detailed question</p> <p>8 and I'd rather be able to provide you with the</p> <p>9 actual information than something that could be</p> <p>10 proven to be incorrect.</p> <p>11 BY MR. NOTZON:</p> <p>12 Q. Would it be accurate to say based</p> <p>13 upon your answer that that was not discussed as</p> <p>14 to whether or not there were more women or more</p> <p>15 men that were needing adjustments because of the</p> <p>16 diversity analysis?</p> <p>17 A. Right. That was not -- that was</p> <p>18 not -- well, we looked at every individual.</p> <p>19 There are cases -- yeah, we looked at every</p> <p>20 individual in the Cockrell School.</p> <p>21 So the Provost did not give us a</p> <p>22 criteria that so much had to be used for women</p> <p>23 and so much had to be used for maybe</p> <p>24 underrepresented minorities. They wanted us to</p> <p>25 evaluate everyone in the school.</p>

<p>106</p> <p>1 And then they -- usually they give us 2 a pot of money and tell us how we want to spend 3 it. In this case, they actually didn't give us a 4 pot. 5 They said, "What would you need to 6 address equity issues?" So it was done 7 differently this year than any type of raise goal 8 in the past. 9 Q. Given that the whole basis for the 10 analysis and the adjustments was diversity, why 11 wouldn't you have discussed the gender or the 12 diversity issue that was being adjusted? 13 MR. DOWER: Objection; 14 form. 15 A. No, I'm -- I'm sorry, the -- the 16 issue was equity, and so there are cases where 17 perhaps we have two men at the same rank and 18 they've been here the same amount time, or 19 perhaps one got an adjustment because that 20 individual went out and got a job offer at 21 another university. 22 And so one of the things we would do 23 is we would then make them equal or close to 24 equal to address a -- a systemic problem like 25 that.</p>	<p>108</p> <p>1 testimony is that you didn't see a gender equity 2 issue that needed to be adjusted? 3 A. I did not say that. 4 Q. Okay. Then I'm asking you. 5 Did you see that a gender issue 6 needed to be adjusted in this salary review? 7 A. I believe within the entire scope of 8 the Cockrell School, there were some women who 9 had had -- their salaries needed to be adjusted. 10 Whether they were -- the reason that 11 their salary was lower to begin with, I did not 12 investigate. All I looked at was where were they 13 relative to their peers, and if it was not a very 14 clear-cut performance basis, then we would look 15 at raise -- providing a raise. 16 So I know there were women on the 17 list. 18 Q. And were those women on the list 19 adjusted to an equity basis as to men 20 comparators? 21 A. There may be women comparators, too. 22 Q. I'm asking -- 23 A. We looked at -- we looked at the 24 peer -- so you're asking me an example. Again, 25 there are roughly 300 faculty members.</p>
<p>107</p> <p>1 So there were a whole variety of 2 things that we considered in this, and we were 3 asked to address the equity of our salaries 4 within the Cockrell School. 5 BY MR. NOTZON: 6 Q. Okay. And may -- maybe I got 7 confused there. 8 So when you're saying "equity," 9 you're talking financial equity. You're not 10 talking gender, race, age, you're not talking 11 about those issues? 12 A. We were asked to look at the salaries 13 and see if there were any issues of equity. And 14 equity could be broad, right? It -- it could be 15 anything. It's just as you're describing. 16 So we looked at every individual and 17 we looked at the peers who had -- most closely 18 tied to them to see if there were differences in 19 salaries, and if those differences were based on 20 performance or on perhaps some other issues, such 21 as, as I mentioned before, one person getting an 22 external offer and getting a raise and another 23 one not. So that -- that was how we approached 24 it. 25 Q. So would it be accurate that your</p>	<p>109</p> <p>1 I've already told you I don't 2 remember how many women and how many men got 3 these raises, so I certainly cannot tell you how 4 many of the women were raised up relative to men, 5 and there weren't women in the comparative pool 6 and how many had women in their comparative pool. 7 I'm sorry, I cannot answer that question. 8 Q. I didn't ask how many, I just asked 9 if there were any that were females that were 10 adjusted up to a male competitor. 11 A. Yes. 12 Q. Com -- comparable, not competitive. 13 A. Yes. 14 Q. Okay. Were any men adjusted up to a 15 female that was higher paid? 16 A. I cannot remember a specific case, 17 but I cannot preclude that from being the case. 18 I just don't remember. 19 Q. Right. It doesn't come to mind from 20 your limited rec -- recall of the many actions 21 that were taken based upon your prior testimony? 22 A. Correct. 23 Q. Okay. Was Dr. Nikolova's salary 24 increased as a result of this analysis? 25 A. I do not believe it was.</p>



<p style="text-align: right;">110</p> <p>1 Q. If she got a raise effective</p> <p>2 September 1st, it would have been because of this</p> <p>3 analysis?</p> <p>4 A. Yes, because our normal merit goal</p> <p>5 was set to zero.</p> <p>6 Q. Right.</p> <p>7 A. So there were -- I think -- I believe</p> <p>8 there were three categories of people who got</p> <p>9 raises. There were people who are in a -- a</p> <p>10 program established by the Provost three years</p> <p>11 ago that was called Faculty Investment</p> <p>12 Initiative, and it was the second phase.</p> <p>13 So they were guaranteed raises over a</p> <p>14 three-year period. The Provost made the decision</p> <p>15 to go ahead with those raises.</p> <p>16 There were faculty who were putting</p> <p>17 new endowments, and so because there was a new</p> <p>18 endowment they were able to get an -- an increase</p> <p>19 due to that.</p> <p>20 Dr. Nikolova did not get a new</p> <p>21 endowment because tenured faculty are the ones</p> <p>22 who were getting endowments, so I'm pretty sure</p> <p>23 that didn't happen.</p> <p>24 And then the last case was a result</p> <p>25 of this equity adjustment.</p>	<p style="text-align: right;">112</p> <p>1 Did -- earlier you were the</p> <p>2 testifying about Julien -- Professor Julien's</p> <p>3 Diversity Committee had been doing -- a lot of</p> <p>4 her work was focused on students.</p> <p>5 Has she done any work related to</p> <p>6 faculty?</p> <p>7 A. So actually the Committee has -- has</p> <p>8 done a lot. The Committee existed before Dr.</p> <p>9 Julien stepped in, and the Committee itself has a</p> <p>10 lot of staff on it, and they have done work with</p> <p>11 students.</p> <p>12 Dr. Julien really has been focusing a</p> <p>13 lot on faculty efforts, her -- particularly how</p> <p>14 we advertise -- advertise for faculty positions</p> <p>15 and how the interview process is going, how we</p> <p>16 ensure everyone's using best practices.</p> <p>17 That was -- that was her primary</p> <p>18 focus during the first year.</p> <p>19 Q. Okay. So any focus on existing</p> <p>20 factors? Anything done on existing factors?</p> <p>21 A. You know, she's held a number of I'll</p> <p>22 call them "coffee hours" for existing faculty,</p> <p>23 but I don't know of any new policies that were</p> <p>24 implemented for existing faculty during her first</p> <p>25 year.</p>
<p style="text-align: right;">111</p> <p>1 Q. Okay.</p> <p>2 A. So those were the only -- those are</p> <p>3 the only categories of people who are able to get</p> <p>4 raises.</p> <p>5 That does not mean -- so we had</p> <p>6 already gone through the process before the merit</p> <p>7 goal was set to zero, so we were assuming that</p> <p>8 there would also be merit increases in addition,</p> <p>9 but then because of COVID and because of the</p> <p>10 financial difficulty of the University, that --</p> <p>11 those merit increases were set to zero.</p> <p>12 Q. Okay.</p> <p>13 A. So as a result, I know -- I know one</p> <p>14 person, for example, has -- has filed a complaint</p> <p>15 because he did not get a raise last year because</p> <p>16 he was not in one of those three categories, and</p> <p>17 so he's now filing a complaint because his salary</p> <p>18 did not increase, and that -- that investigation</p> <p>19 is under -- under way right now.</p> <p>20 Q. Okay. And that was -- that's an</p> <p>21 Assistant Professor?</p> <p>22 A. No. This is the endowed Chair, so</p> <p>23 full Professor.</p> <p>24 Q. All right. And last will be review</p> <p>25 questions.</p>	<p style="text-align: right;">113</p> <p>1 Q. Okay. Or since she's been in that</p> <p>2 role?</p> <p>3 A. Right.</p> <p>4 Q. Okay.</p> <p>5 A. I think the fact that much of the</p> <p>6 time has been -- especially for the past -- the</p> <p>7 past calendar year we've been in COVID. It's</p> <p>8 been really hard to -- to have a lot of in-</p> <p>9 person -- you know, so actually -- so one thing</p> <p>10 that did happen that she did is I mentioned the</p> <p>11 movie "Picture a Scientist," so this -- it talks</p> <p>12 about gender inequities in -- in STEM fields.</p> <p>13 So this was something that we did in</p> <p>14 collaboration with -- Christine lead this. We</p> <p>15 had a showing that was available to faculty in</p> <p>16 Engineering, Natural Sciences, Jackson School of</p> <p>17 Geosciences, and Pharmacy, and I believe that she</p> <p>18 also had some follow-up conversations or -- or</p> <p>19 the equivalent of a book club to have</p> <p>20 conversations about the movie afterwards, so that</p> <p>21 was something in specific that was really</p> <p>22 targeted at -- at current faculty.</p> <p>23 This -- the -- the woman who led that</p> <p>24 MIT study that I referenced earlier was featured</p> <p>25 in the movie. There was also a woman, I don't</p>

<p style="text-align: right;">114</p> <p>1 remember where she was from, but she had done  2 field work, and she had been harassed by her  3 supervisor when she was a Ph.D. student, so there  4 was a long dis -- there was -- that was part of  5 it.</p> <p>6 And there was a third person I'm just  7 not remembering right now. So I think this  8 really was trying to focus on these inherent  9 biases that can exist, and then the fact that  10 there were discussions afterwards was -- was  11 something that was -- an attempt to -- to help  12 foster discussion within the Cockrell School  13 primarily at -- for faculty and -- and grad  14 students.</p> <p>15 Q. Okay. Following all this, no  16 specific policy was proposed or implemented?  17 A. No.</p> <p>18 Q. Okay. That would be accurate?  19 A. Yes, you're correct; right.</p> <p>20 Q. And in -- in selecting Professor  21 Julien for this role, that was your decision?  22 A. It was.</p> <p>23 Q. And were there -- was it a posted  24 position? Were there other applicants?  25 A. So I -- I did not post it. Professor</p>	<p style="text-align: right;">116</p> <p>1 Q. Okay. And does Professor Julien  2 still teach?  3 A. Yes. She has a halftime  4 appointment -- she has a halftime academic  5 appointment. And this is part of my negotiation  6 with the Associate Deans, as to what they want  7 their responsibilities to be.</p> <p>8 Dr. Julien told me how much she  9 enjoys teaching, and so it was very important for  10 her to be able to maintain her role in the  11 classroom.</p> <p>12 Q. Okay. And so her time is divided?  13 A. Yes, not --  14 Q. She was not expected to do one or the  15 other?  16 A. Not only -- she has a 50 appoint -- a  17 50 percent appointment as Associate Dean and a  18 50 -- and 50 percent as a faculty member,  19 correct.</p> <p>20 Q. Okay. And what about her research?  21 A. That actually was my concern, right,  22 was that I wanted to make sure that her research  23 maintains a high level, but she -- she's -- we  24 came to an agreement that this is something  25 she -- so we -- we -- we -- she negotiated on</p>
<p style="text-align: right;">115</p> <p>1 Julien had participated in an academic leadership  2 program called "ELATES"; it's run through Drexel  3 University. And she had -- when she  4 participated, which was a couple of years ago,  5 she had specifically said that she was interested  6 in a leadership role within the Cockrell School;  7 she was interested in an academic leadership  8 role.</p> <p>9 So the -- the two women that I --  10 that I had hired from outside to be Department  11 Chairs also participated in that program, so I  12 reached out specifically to Christine to see if  13 this would be something that was of interest to  14 her, because when she -- when I had talked to  15 her, which was part of the requirement of this  16 leadership program, you know, she asked to be --  17 for me to consider her.</p> <p>18 Q. Okay. When did she first tell you  19 that she was interested in administration?  20 A. That would have been when she applied  21 for the ELATES program, which I do not remember  22 when it was. I'd have to look in my files. It  23 was several years ago.</p> <p>24 Q. While you were the Dean?  25 A. Yes.</p>	<p style="text-align: right;">117</p> <p>1 what she wanted to do, and I feel it's important  2 for people to -- to do what they want to do.</p> <p>3 So she is still doing research. She  4 is -- we're paying -- we're paying her two months  5 of summer salary, and -- and then she has a half-  6 time appointment which has a different pay rate  7 for her administrative role.</p> <p>8 Q. Okay. And what's the -- what's the  9 two months of summer salary for?  10 A. For her administrative role.</p> <p>11 Q. Okay. Because it continues all year  12 long?  13 A. Right.</p> <p>14 Q. Okay. And do you know what kind of  15 funding she has?  16 A. Not off the top of my head, no.</p> <p>17 Q. Okay.</p> <p>18 A. Normally, though, a faculty member  19 pays their summer salary from their research  20 grants, so by covering two months of her summer  21 salary, this would give her more flexibility in  22 her research grants.</p> <p>23 Q. Okay. It doesn't claw away the --  24 the funding pool?  25 A. No.</p>

<p style="text-align: right;">118</p> <p>1 Q. Okay. And she's an Associate?</p> <p>2 A. She's a full Professor and an</p> <p>3 Associate Dean.</p> <p>4 Q. Okay. And when did she get her full</p> <p>5 Professorship?</p> <p>6 A. She was promoted since I have been</p> <p>7 Dean, but I do not remember the year.</p> <p>8 Q. Okay. It was before she got this</p> <p>9 role as Associate Dean?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Let's talk about early</p> <p>12 promotion.</p> <p>13 Tell me if you understand that early</p> <p>14 promotion is -- requires a different standard</p> <p>15 than the full probationary clock period</p> <p>16 promotion.</p> <p>17 A. Early promotion requires</p> <p>18 additional -- the -- for early promotion -- a</p> <p>19 candidate must be above the bar in all areas to</p> <p>20 be successfully promoted on an early basis, yes.</p> <p>21 Q. Okay. And where is that requirement</p> <p>22 found in UT policy?</p> <p>23 A. So every year the University issues</p> <p>24 guidelines for promotion and tenure, and there is</p> <p>25 a statement in there that says early -- or -- I</p>	<p style="text-align: right;">120</p> <p>1 the Provost had conversations about accelerated</p> <p>2 promotion. It made it clear that the</p> <p>3 expectations were that the accelerated promotion</p> <p>4 would be used very rarely, and be used for cases</p> <p>5 that are above the bar in all areas.</p> <p>6 Role --</p> <p>7 Q. And -- I'm sorry. Go ahead.</p> <p>8 A. No, go ahead.</p> <p>9 Q. And so this is a verbal</p> <p>10 communication?</p> <p>11 A. Yes, it is. It's oral.</p> <p>12 Q. There's nothing in writing?</p> <p>13 A. Correct.</p> <p>14 Q. Or -- or another way to put it, is</p> <p>15 there's -- there's no formal policy that says</p> <p>16 "above the bar in all areas for accelerated</p> <p>17 promotion"?</p> <p>18 A. This is -- this is guidance that</p> <p>19 is -- was given to us multiple times through the</p> <p>20 Provost's Office.</p> <p>21 Q. Okay. And when did you first</p> <p>22 understand that "above the bar in all areas" --</p> <p>23 well, I don't want to get locked into that</p> <p>24 language. I don't know if you do, either.</p> <p>25 But when were you first informed</p>
<p style="text-align: right;">119</p> <p>1 think they using the word "accelerated" now --</p> <p>2 accelerated promotion must be justified.</p> <p>3 So that's -- that is where it</p> <p>4 officially occurs in the policies, however, after</p> <p>5 every promotion cycle the President's Committee</p> <p>6 meets with Dean -- has an open meeting with Deans</p> <p>7 and Department Chairs to talk about the last</p> <p>8 cycle and what their expectations are and to make</p> <p>9 sure that everyone is on the same page, and this</p> <p>10 is frequently a conversation during those --</p> <p>11 those presentations.</p> <p>12 Q. Isn't the language not -- it doesn't</p> <p>13 use the word "justified"; it -- it uses the word</p> <p>14 "explained."</p> <p>15 A. I believe you are correct.</p> <p>16 Q. And isn't it true that there's</p> <p>17 nothing that says that you have to achieve a high</p> <p>18 bar in all areas differently from the full</p> <p>19 probationary clock review?</p> <p>20 A. So the written guide -- the written</p> <p>21 guidance certainly says that, however, the oral</p> <p>22 guidance that is given to the Deans is -- as I</p> <p>23 mentioned, is "above the bar in all areas."</p> <p>24 As a matter of fact, there were</p> <p>25 numerous discussions within Dean's Council where</p>	<p style="text-align: right;">121</p> <p>1 either as a Dean or before you were the Dean that</p> <p>2 accelerated -- and I'll use the term "accelerated"</p> <p>3 because that's the one you're using --</p> <p>4 accelerated promotion would require a different</p> <p>5 standard than what -- what's the other one? So</p> <p>6 there's "accelerated" and then there's -- that's</p> <p>7 the other promotion called?</p> <p>8 A. It would be just called "on time."</p> <p>9 Q. Okay.</p> <p>10 A. And so --</p> <p>11 Q. All right. So when did you first</p> <p>12 understand that "accelerated" tenure</p> <p>13 consideration required a higher standard than an</p> <p>14 "on-time" tenure consideration?</p> <p>15 A. So when I was a Department Chair I</p> <p>16 started attending -- there was an academic</p> <p>17 leadership event.</p> <p>18 The Provost's Office offered --</p> <p>19 organized an academic leadership meeting before</p> <p>20 the beginning of the academic year.</p> <p>21 I attended that where they talked --</p> <p>22 had a session on promotion and tenure. I</p> <p>23 attended the President's meetings with the other</p> <p>24 members of the President's Committee where</p> <p>25 they've talked about it.</p>

<p style="text-align: right;">122</p> <p>1 And so I think that is how I gained</p> <p>2 my understanding of it.</p> <p>3 Q. And that understanding has remained</p> <p>4 constant from that whole -- so over ten years</p> <p>5 you've had that understanding?</p> <p>6 A. No. The -- the University -- I</p> <p>7 honestly believe that the expectations have</p> <p>8 changed as the members of -- as the members of</p> <p>9 the President's Committee have changed.</p> <p>10 And so there are -- every year,</p> <p>11 that's why it's -- that's why they brief us every</p> <p>12 year on things that they've noticed, things they</p> <p>13 want us to address specifically. But it is done</p> <p>14 orally. That's one of the things that makes it</p> <p>15 challenging.</p> <p>16 But the -- the members of the</p> <p>17 Committee have -- have changed significantly. I</p> <p>18 think there's only one member of the Committee</p> <p>19 who has served the entire time that I've been</p> <p>20 Dean.</p> <p>21 So each President has a different --</p> <p>22 has a different take on what is required for</p> <p>23 early promotion, and so that -- or, I'm sorry,</p> <p>24 accelerated promotion, and then the Provost had</p> <p>25 very -- when Dr. McInnis came in as Provost, she</p>	<p style="text-align: right;">124</p> <p>1 "on-time" promotion.</p> <p>2 BY MR. NOTZON:</p> <p>3 Q. Okay. At least since the time that</p> <p>4 you heard increased standard?</p> <p>5 A. Right.</p> <p>6 Q. Okay. So when I said "it remained</p> <p>7 the same," I meant that -- the higher standard.</p> <p>8 That's why I went away from that "above the bar</p> <p>9 in all areas" just in general.</p> <p>10 A. Right.</p> <p>11 Q. Okay. So what you were telling me is</p> <p>12 what has changed is the intensity of how high</p> <p>13 that bar needs to be cleared?</p> <p>14 A. Right. And -- and another thing that</p> <p>15 has changed is --</p> <p>16 Q. Wait, wait. Would you answer that</p> <p>17 question first?</p> <p>18 A. Yes. I'm sorry. The -- yes, how far</p> <p>19 above the bar.</p> <p>20 Q. Okay. So that -- that bar has moved,</p> <p>21 and where the bar is had moved over the period of</p> <p>22 years, what? 15, 20 years now?</p> <p>23 A. No, 12, 13.</p> <p>24 Q. Okay. All right. Now you were going</p> <p>25 to say something?</p>
<p style="text-align: right;">123</p> <p>1 had some very strong feelings, also.</p> <p>2 So as I mentioned, this was discussed</p> <p>3 within the Dean's Council several times.</p> <p>4 Q. What was Provost McInnis' strong</p> <p>5 opinion on it? Strong which way?</p> <p>6 A. She also believed that an</p> <p>7 "accelerated" promotion needed to be "above the</p> <p>8 bar in all areas."</p> <p>9 Q. Okay. So you -- you answered my</p> <p>10 question earlier about the first time you heard</p> <p>11 about "above the bar in all areas," a higher</p> <p>12 standard for "accelerated" versus "on time" was</p> <p>13 when you were a Department Chair.</p> <p>14 And could you identify where -- and I</p> <p>15 asked you if that remained the same, where a -- a</p> <p>16 higher standard for "accelerated" over "on time"</p> <p>17 continued, and you demurred.</p> <p>18 So I want to find out, is there a</p> <p>19 time at which between the time you first heard a</p> <p>20 higher standard for "accelerated" was changed to</p> <p>21 the same standard as "on time."</p> <p>22 MR. DOWER: Objection;</p> <p>23 form. Go ahead.</p> <p>24 A. I've never heard that the same</p> <p>25 standard would be used for "accelerated" and</p>	<p style="text-align: right;">125</p> <p>1 A. I was going to say one thing that has</p> <p>2 changed significantly is we -- we talked about --</p> <p>3 or we didn't talk about, but the University has a</p> <p>4 policy that a faculty member can request an</p> <p>5 extension to the probationary period because for</p> <p>6 the birth or adoption of a child or to take care</p> <p>7 of a sick family member.</p> <p>8 In the past they did not ask the</p> <p>9 candidate to rescind if they wanted to go up at</p> <p>10 the normal time, and now they're asking</p> <p>11 specifically that you rescind so that it -- the</p> <p>12 amount of time that you're -- that you -- if</p> <p>13 you're at the six years of in rank, which would</p> <p>14 be the normal time, right, if you had been five</p> <p>15 years of probationary service and one year of</p> <p>16 extension, they ask you to rescind the extension</p> <p>17 so that you are at -- you will now have six years</p> <p>18 of both probationary and in rank.</p> <p>19 So that's a technicality which I'll</p> <p>20 be happy to discuss in more detail, but that is</p> <p>21 something that was not of concern earlier in --</p> <p>22 while I was Dean and now is a big factor as I'm</p> <p>23 Dean.</p> <p>24 Q. Okay. Let -- let's go ahead and talk</p> <p>25 about that. That -- that's fine. The -- and</p>

<p style="text-align: right;">126</p> <p>1 let's clarify, because it -- it can be quite  2 confusing, I think at least for me.  3 So when we're talking about going up  4 on time, are you going up during the sixth year  5 so that you would have completed five years  6 before?  7 A. So we're -- we're talk -- are we  8 talking specifically about the promotion from  9 Assistant to Associate Professor?  10 Q. Yes, yes, yes.  11 A. Okay. Great. Then yes. On-time  12 promotion from Assistant to Associate Professor  13 occurs during the sixth year, so you have  14 completed five years of probationary service, and  15 you will have completed six years at the time  16 that your promotion is effective on September  17 1st the following year.  18 Q. All right. So when the -- when the  19 Dean's evaluation comes out and has on the blanks  20 how many years the applicant or the candidate has  21 been there, does it count -- does it say "sixth"  22 there if it's on time?  23 A. Yes. Well, yes.  24 Q. Even though the sixth year hasn't  25 officially been complete?</p>	<p style="text-align: right;">128</p> <p>1 A. Okay. So modified instructional  2 duties allow a faculty member to do something  3 other than teach in a classroom for a semester.  4 They -- this is really done at the Departmental  5 level, and they agree they will focus on  6 developing notes for a new class or something.  7 But it gives them one semester when  8 they're not teaching. It does not impact their  9 probation -- their clock -- their tenure clock.  10 Requesting an extension to the  11 probationary period means that a specific year  12 does not count, so if -- if I -- if I had  13 requested an extension to the probationary  14 period, my years of probationary status would be  15 one year less than my total number of years in  16 rank.  17 Q. Got it. And so you would also  18 understand my confusion about the tenure clock  19 also being attached to this issue.  20 And tell me if this is correct: That  21 a majority of the people that take -- or avail  22 themselves of the modified instructional duty  23 benefit also do a tenured clock extension  24 associated with that?  25 A. The majority do, yes.</p>
<p style="text-align: right;">127</p> <p>1 A. All right. So that -- that sixth  2 year -- what they're referring to is what would  3 be the years they rank at the time the promotion  4 becomes effective, which would be on September 1.  5 Q. Okay.  6 A. So at that time the -- the candidate  7 would have completed six years in rank.  8 Q. Okay. You understand how it can be  9 confusing, because it's a par -- it's a paradigm  10 that somebody has to set?  11 A. I understand completely how confusing  12 it is, yes.  13 Q. All right. So now we get into the --  14 the modified instructional duties. And there  15 was -- you said that there was a -- a -- a point  16 in which the candidate who had -- had availed  17 themselves of the modified instructional duty was  18 told or offered the option of rescinding that  19 benefit?  20 A. So I need to clarify here.  21 Q. Sure.  22 A. There's a difference between  23 "modified instructional duties" and "extension of  24 the probationary status."  25 Q. Ah. Please explain.</p>	<p style="text-align: right;">129</p> <p>1 Q. Okay. And what are the other reasons  2 why somebody asked for and can qualify for an  3 extension of their tenure clock besides modified  4 instructional duty?  5 A. So the -- no -- no, not -- it's --  6 remember, they're not the same.  7 Q. No, I know. But -- but if you took  8 modified instructional duty, would you qualify  9 for the tenure extension?  10 A. Completely separate process.  11 "Modified instructional duties" are negotiation  12 with the Department Chair about what you're going  13 to do -- how you -- you will enhance the  14 educational mission of the University for a  15 semester when you're not teaching.  16 "Extension of the probationary  17 period" is a form you fill out that goes to the  18 Provost's Office, and it will automatically be  19 accepted up to two times that allows you to not  20 count an academic year as part of your  21 probationary period.  22 Q. Without question as for the reason?  23 A. Well, there -- there are reasons  24 stated, right, is that it's the birth or adoption  25 of a child, a sick family member, a close parent,</p>

<p style="text-align: right;">130</p> <p>1 something like that.</p> <p>2 Q. Wait.</p> <p>3 A. But I think you have to specify the</p> <p>4 reason. To be honest, I don't look at the forms,</p> <p>5 but those are -- I could -- I could find that for</p> <p>6 you. That form is readily available.</p> <p>7 Q. Let me -- let me clarify.</p> <p>8 Were you just answering qualifying</p> <p>9 for extension of the probationary clock?</p> <p>10 A. Yes.</p> <p>11 Q. Because you -- you listed the same</p> <p>12 things that would qualify you for the modified</p> <p>13 instructional duty.</p> <p>14 A. That's correct.</p> <p>15 Q. Okay.</p> <p>16 A. That's correct. But they're two</p> <p>17 separate -- two separate things.</p> <p>18 Q. If you qualified for the one,</p> <p>19 modified instructional duty, you would be</p> <p>20 qualified for the tenure clock extension, but</p> <p>21 they're two separate processes and decision-</p> <p>22 making?</p> <p>23 A. Right.</p> <p>24 Q. Okay. Gotcha. And on the -- on the</p> <p>25 extension of the tenure clock, I just wanted to</p>	<p style="text-align: right;">132</p> <p>1 Q. Are there any -- I mean, we're just</p> <p>2 talking about qualifying criteria right now.</p> <p>3 A. Right.</p> <p>4 Q. Is there any other qualifying</p> <p>5 criteria for extending the probationary clock?</p> <p>6 A. Yes. If you are on a leave without</p> <p>7 pay during an academic year, then that year does</p> <p>8 not count towards your probationary period.</p> <p>9 Q. Okay.</p> <p>10 A. And then in addition -- this happened</p> <p>11 just last year because of COVID and the</p> <p>12 disruption associated with COVID -- UT's system</p> <p>13 allows two-week extensions of the probationary</p> <p>14 period for modi -- because of birth or adoption</p> <p>15 of a child.</p> <p>16 Like they will allow an additional</p> <p>17 year due to COVID -- the impact of COVID because</p> <p>18 our laboratories were shut down, a whole variety</p> <p>19 of reasons, so now there is a COVID extension,</p> <p>20 also.</p> <p>21 Q. And would it be accurate, I would</p> <p>22 assume, that you don't actually have to prove</p> <p>23 that COVID impacted you; you -- you can just say</p> <p>24 it?</p> <p>25 A. I believe the -- the way the system</p>
<p style="text-align: right;">131</p> <p>1 clarify that different -- is it different from</p> <p>2 the modified instructional duty that there -- you</p> <p>3 don't actually have to qualify for the request</p> <p>4 for the extension; you can get the extension for</p> <p>5 any reason or no reason?</p> <p>6 A. To get the extension?</p> <p>7 Q. Yes.</p> <p>8 A. No. It -- it is for the -- in most</p> <p>9 cases that I've seen it's for the birth or</p> <p>10 adoption of a child, although the policy is</p> <p>11 general enough that you could also do it for it</p> <p>12 to take care of a family -- close family member.</p> <p>13 Q. Okay. So you do have to provide a</p> <p>14 qualifying reason to get your tenure clock</p> <p>15 extended?</p> <p>16 A. Right.</p> <p>17 Q. Which would also be the exact same</p> <p>18 qualifications for the modified instructional</p> <p>19 duty?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. Are there --</p> <p>22 A. But the -- the result is different,</p> <p>23 right?</p> <p>24 Q. I gotcha. I gotcha.</p> <p>25 A. Okay.</p>	<p style="text-align: right;">133</p> <p>1 rules work, you have to apply for a -- you have</p> <p>2 to fill out a form to apply.</p> <p>3 I personally have never seen the</p> <p>4 form, so I don't know what you have to say, but</p> <p>5 you --</p> <p>6 Q. Right. You're not a decision-maker</p> <p>7 on that?</p> <p>8 A. I'm not the decision-maker.</p> <p>9 Q. You don't --</p> <p>10 A. Right. So the person who -- who</p> <p>11 wants an extension has to complete a form.</p> <p>12 Q. Right.</p> <p>13 A. That's all I know.</p> <p>14 Q. And the Provost's Office makes the</p> <p>15 decision?</p> <p>16 A. Correct.</p> <p>17 Q. All right. And the -- now back to</p> <p>18 the issue of rescinding the probationary clock</p> <p>19 extension, that's where the rescission comes in,</p> <p>20 correct?</p> <p>21 A. That is correct; right.</p> <p>22 Q. Okay. When did that -- you said that</p> <p>23 changed.</p> <p>24 When did that change?</p> <p>25 A. It definitely occurred since I've</p>



<p style="text-align: right;">134</p> <p>1 been Dean. I was reviewing for this -- this  2 meeting, and I think it happened in the '18/'19  3 academic year because the notes I have for '17/  4 '18 indicate it's some -- a statement about,  5 well, if the person is not at the -- is not up-  6 or-out, so they will not have completed six years  7 of probationary status, but they've extended --  8 they've gotten an extension and it would  9 otherwise be the normal time, then it's not --  10 you don't have to justify why it's early or  11 explain why it's early.  12 Q. Okay.  13 A. And so this is where -- you know, how  14 do we make this clearer? How do -- and so one  15 way to make it clearer is to say, well, if -- if  16 you don't want -- if you don't want that  17 extension, you now rescind it to formally say  18 this year counts as part of my probationary  19 period, and so now the years are -- are  20 numbered -- you know, now the years are counted  21 as the candidate wants them to be counted, and  22 there's no additional justification or  23 explanation for being early or accelerated.  24 Q. Okay. Now the -- what -- I guess I'm  25 trying to understand, what changed? Was it</p>	<p style="text-align: right;">136</p> <p>1 maybe you're gaming the system or not, we're not  2 going to say, but if you don't rescind the --  3 the -- the probationary extension, there's going  4 to be this itching question about whether or not  5 you're gaming the system?"  6 A. Or the -- right. So if you --  7 remember we talked about being above the bar,  8 right?  9 Q. Yeah.  10 A. So if the expectation is higher if  11 you're going up earlier, which you would be if  12 you had -- if you counted that extension as  13 probationary, now the bar is -- you're meeting  14 the bar, so I think it's more -- more -- it's --  15 it's easier for the candidate or -- or it's more  16 clear for the candidate to understand there's one  17 bar, right, you -- you meet the bar, and then  18 you're also up-or-out, so you get one shot at  19 going -- at being considered.  20 Q. Yeah. You're offered a carrot and a  21 stick at the same time?  22 A. That is absolutely correct; right.  23 Q. You're given the carrot of the lower  24 bar but the stick of "This is your last shot"?  25 A. Right.</p>
<p style="text-align: right;">135</p> <p>1 before once you took a year extension, you got  2 that year extension, you're stuck with it? Or  3 was the change that there was an affirmative  4 communication to the faculty member at a certain  5 point that they are approached with the opp --  6 opportunity to rescind?  7 What -- what changed?  8 A. What changed was an opinion on the  9 President's Committee that they did -- they  10 wanted to limit the ability of people to be  11 considered multiple times for promotion.  12 So if a person requested an extension  13 to the probationary period and was going up at  14 their normal times, they had not rescinded it,  15 then technically they could ask to be  16 reconsidered for promote -- if it was not  17 successful, they could ask to be considered the  18 next year.  19 Q. Oh, so they're -- they're trying to  20 avoid gaming the system?  21 A. That's right. So by rescinding it,  22 now you're up-or-out, and you get one shot to be  23 considered for promotion.  24 Q. So they're putting a little pressure  25 on the candidate to, you know, "Hey, maybe --</p>	<p style="text-align: right;">137</p> <p>1 Q. I guess the added carrot is that you  2 are confirming that you're not gaming the system?  3 A. That's right. So as you noticed,  4 this gets to be a very technical discussion,  5 right, and lots of implications, and so this is  6 why there were so many discussions with the  7 Dean's Council about it.  8 Q. Well, and -- and there are so many  9 unknowns, right? There is no identification of  10 how high the bar is, there is no known, "Are you  11 going to meet the standard or not." It's totally  12 unwritten, totally unidentified?  13 A. It is unwritten. It is discussed  14 publicly, as I mentioned, and then as part of  15 the -- the normal process, right, is that the  16 Dean would meet with the -- all the Assistant  17 Professors and have conversations of "These are  18 the trends I'm observing. This is a change in  19 pol -- this is a change. Be aware of this."  20 But it's not -- there's -- there's no  21 check sheet that someone has to check off, "Yes,  22 I understand these changes," you're correct.  23 Q. When you said "trends we're  24 observing," trends we're observing in the -- what  25 is good enough to make tenure?</p>



<p style="text-align: right;">138</p> <p>1 A. Well, the fact that one year you</p> <p>2 didn't have to rescind and the next year they --</p> <p>3 you're being encouraged to rescind if you want to</p> <p>4 be considered with the same number of years in</p> <p>5 rank, that's a -- that's a change, and so that --</p> <p>6 Q. But I'm talking about the trend. I'm</p> <p>7 talk -- you mentioned "trends."</p> <p>8 A. Right. So I -- I -- I use that as</p> <p>9 one of the things that changed, so the -- the</p> <p>10 President's Committee, as -- as I mentioned,</p> <p>11 would have a debrief every year after the cycle</p> <p>12 has completed, and they would express that --</p> <p>13 they would identify things that they thought they</p> <p>14 didn't like, they wanted to change.</p> <p>15 The wording that may appear in the</p> <p>16 guidelines might be, you know, a very simple</p> <p>17 statement, but then they would elaborate on it</p> <p>18 during their meetings with the Deans and</p> <p>19 Department Chairs, they might have additional</p> <p>20 elaboration with the Deans, and the Deans have to</p> <p>21 make sure that this information is conveyed to</p> <p>22 the -- to the Department Chairs, and then the</p> <p>23 Department Chairs convey that to the faculty</p> <p>24 members.</p> <p>25 Q. I appreciate that, but I'm -- I'm</p>	<p style="text-align: right;">140</p> <p>1 law school, the -- the -- the -- the way that law</p> <p>2 students understand that grades are given is that</p> <p>3 there's only a certain number of A's, and so it's</p> <p>4 the whole running away from the bear thing.</p> <p>5 I don't -- I don't have to run faster</p> <p>6 than the bear; I just have to run faster than you</p> <p>7 to get the egg, right?</p> <p>8 So is -- is that how tenure is</p> <p>9 granted, that when you go up for tenure it's not</p> <p>10 about how you measure up in general for all time</p> <p>11 in your performance as a Professor, but it's in</p> <p>12 relation to how many people are going up and what</p> <p>13 they're like?</p> <p>14 A. No, that is not correct.</p> <p>15 Q. Okay. So if ten people go up and</p> <p>16 they all qualify, they all go in? There's no pot</p> <p>17 that -- that's limited?</p> <p>18 A. There is no pot.</p> <p>19 Q. Okay. It's -- it's not a limited</p> <p>20 piece of pie?</p> <p>21 A. Correct, it is not limited.</p> <p>22 Q. Okay.</p> <p>23 A. I think since I've been Dean on the</p> <p>24 order of 90 percent of the people have been</p> <p>25 promoted.</p>
<p style="text-align: right;">139</p> <p>1 still -- I'm trying to get specifically at the</p> <p>2 point of the candidate when making the decision</p> <p>3 about rescinding or not, they don't know how high</p> <p>4 the bar is really in either situation.</p> <p>5 They don't really know, because</p> <p>6 there's no specific defined criteria, a</p> <p>7 measurable criteria that needs to be met on each</p> <p>8 of the areas to make tenure on time or to make</p> <p>9 tenure at the higher bar accelerated</p> <p>10 consideration, correct?</p> <p>11 A. So I -- I'm going to talk -- tell you</p> <p>12 the advantages of not having specific metrics.</p> <p>13 Q. Well, wait, wait. Please answer my</p> <p>14 question and then you can explain the advantages.</p> <p>15 A. Okay. The -- the --</p> <p>16 Q. Do you agree with what I said?</p> <p>17 A. The Cockrell School does not have a</p> <p>18 written policy that says, "To be promoted in the</p> <p>19 normal time you need to achieve "X" and lists a</p> <p>20 whole series of things," that is correct.</p> <p>21 Q. Okay. And also, there's no written</p> <p>22 higher bar metric that needs to be met, correct?</p> <p>23 A. Correct.</p> <p>24 Q. Okay. And is it also the case,</p> <p>25 and -- and I -- I'll -- I'll make a reference to</p>	<p style="text-align: right;">141</p> <p>1 Q. Okay. And there have been times</p> <p>2 where every applicant that went up was promoted?</p> <p>3 A. I would have to check my records. I</p> <p>4 honestly don't remember. I mean, there -- there</p> <p>5 have been eight years, and I -- I cannot remember</p> <p>6 each year, but...</p> <p>7 I -- I believe that's the case, but I</p> <p>8 would have to check to confirm that.</p> <p>9 Q. Okay. In either way -- in either</p> <p>10 instance, what you're saying is it is possible.</p> <p>11 Whether it happens or not is another question</p> <p>12 entirely depending upon the candidates and their</p> <p>13 records?</p> <p>14 A. That is correct. It is possible that</p> <p>15 every person would be promoted, correct.</p> <p>16 Q. Okay. All right. And I understand</p> <p>17 that the questions I'm asking you about this</p> <p>18 process may be the exact same testimony that you</p> <p>19 would give me as UT from the Dean and the Tenure</p> <p>20 and Promotion Committee perspective, but you also</p> <p>21 have personal knowledge of the specific questions</p> <p>22 I'm asking.</p> <p>23 So I'm asking you these, and I -- I'm</p> <p>24 not --</p> <p>25 MR. NOTZON: Well, let's</p>

<p style="text-align: right;">142</p> <p>1 go off the record real quick.</p> <p>2 THE COURT REPORTER: Yes,</p> <p>3 we're going off the record at 12:21</p> <p>4 p.m.</p> <p>5 (Lunch recess from 12:21 p.m. to 1:23 p.m.)</p> <p>6 THE COURT REPORTER: Okay.</p> <p>7 We're going on the record at 1:23</p> <p>8 p.m.</p> <p>9 BY MR. NOTZON:</p> <p>10 Q. Okay. Dean Wood, back from lunch.</p> <p>11 We were talking about the changes</p> <p>12 that had been occurring in rescinding the</p> <p>13 probationary extension, and I believe you said</p> <p>14 that that change had occurred, and you said</p> <p>15 something like the -- the academic year '18/'19.</p> <p>16 Is that -- what do you recall about</p> <p>17 when the re -- the changes to the rescission of</p> <p>18 probation were occurring and -- and how that</p> <p>19 played out?</p> <p>20 A. So I remember having multiple</p> <p>21 discussions while Provost Mc -- while Maurie</p> <p>22 McInnis was our Provost.</p> <p>23 I looked at the -- the summary sheet</p> <p>24 that I prepared for the Promotion and Tenure</p> <p>25 Committee in '17/'18 and then again in '18/'19,</p>	<p style="text-align: right;">144</p> <p>1 A. That should have been at the</p> <p>2 Department level.</p> <p>3 Q. Okay. And was there -- well, is</p> <p>4 there currently a deadline within which you need</p> <p>5 to rescind your probationary extension?</p> <p>6 A. I believe the standard deadline in</p> <p>7 the Provost's Office is February, however, they</p> <p>8 have been letting us do it any time before early</p> <p>9 May.</p> <p>10 So there -- the reason is, you want</p> <p>11 to have it done before requests for letters are</p> <p>12 sent out to external reviewers.</p> <p>13 Q. Okay. So when you say "February,"</p> <p>14 it's got -- it's February of the fifth year?</p> <p>15 A. Correct.</p> <p>16 Q. And if it's early, February of the</p> <p>17 year before you're considered?</p> <p>18 A. That's correct.</p> <p>19 Q. Okay. Is -- is that deadline still</p> <p>20 in place?</p> <p>21 A. So I -- it's my understanding the</p> <p>22 Provost's Office is flexible with the deadline,</p> <p>23 and as long as we do it some -- in May, that that</p> <p>24 is sufficient notification to them --</p> <p>25 Q. Okay.</p>
<p style="text-align: right;">143</p> <p>1 and the wording was different, and so I believe</p> <p>2 it must have occurred in between -- in -- in that</p> <p>3 '17/'18 academic year, but I don't actually --</p> <p>4 that -- I -- that -- that is -- that is the basis</p> <p>5 of my assumption there.</p> <p>6 Q. Do you know if Dr. Nikolova was</p> <p>7 informed or told that she was given the option of</p> <p>8 rescinding her probationary extension?</p> <p>9 A. I honestly do not know if she was</p> <p>10 told, however, in one of the -- in one of the</p> <p>11 rebuttals that she wrote, she had a comment in</p> <p>12 there, and I'm paraphrasing here, about "I was</p> <p>13 told that extending my probationary period would</p> <p>14 not count against me because I could always</p> <p>15 rescind it."</p> <p>16 So that implied to me that she at;</p> <p>17 least knew that she could have rescinded it.</p> <p>18 Q. Well, knowing you can rescind it and</p> <p>19 being offered the opportunity to do it as part of</p> <p>20 a process are two different things, correct?</p> <p>21 A. I -- I agree with you, and I do not</p> <p>22 know. I would like to hope that she was offered</p> <p>23 it, but I do not know.</p> <p>24 Q. Okay. Who would have offered it to</p> <p>25 her?</p>	<p style="text-align: right;">145</p> <p>1 A. -- to rescind it.</p> <p>2 Q. And is that in writing?</p> <p>3 A. I don't know. I've seen</p> <p>4 correspondence from Jerry to candidates, but I</p> <p>5 have not checked that myself. I would have to</p> <p>6 check that.</p> <p>7 Carmen Shockley would be a very good</p> <p>8 person to ask that question to in the Provost's</p> <p>9 Office.</p> <p>10 Q. And what's her position?</p> <p>11 A. I'm sorry?</p> <p>12 Q. What's her position?</p> <p>13 A. She is in the Provost's Office, and</p> <p>14 she's an Assistant Vice President. So she's in</p> <p>15 the -- she is a staff member who oversees the</p> <p>16 faculty evaluation process.</p> <p>17 Q. Do you recall -- well, let me ask a</p> <p>18 question on the -- specifically related to Dr.</p> <p>19 Nikolova.</p> <p>20 If she would have rescinded her</p> <p>21 probationary extension, she would have still been</p> <p>22 at 5.5, correct?</p> <p>23 MR. DOWER: Objection;</p> <p>24 form.</p> <p>25 A. If she had rescinded, she would have</p>

<p>146</p> <p>1 still had five and a half years in rank, however,  2 UT's system says that half years don't count  3 toward fulfilling the probationary period, so it  4 would have been five years of probationary  5 service.  6 BY MR. NOTZON:  7 Q. So she still would have been, quote/  8 unquote, "early" based upon UT time?  9 A. Yes.  10 Q. And would that mean that she would  11 still be subject to the higher bar on all areas?  12 A. Yes. However, verbally the President  13 had told -- had informed us that the -- the  14 earlier the person is, the more difference they  15 expect between the normal and where the can --  16 each candidate is.  17 Q. Okay. And when you say "us," you're  18 talking about Deans?  19 A. Deans. And I -- I do not remember  20 exactly -- I don't remember explicitly if that  21 was discussed with the Department Chairs also,  22 however, this is something that I would have  23 discussed with the Department Chairs.  24 Q. Okay. And do you know if Dr.  25 Nikolova was told that it would be a doubly high</p>	<p>148</p> <p>1 A. In the Department, correct.  2 Q. Okay. And did you -- other than  3 reviewing the files, one of which would have been  4 Dr. Nikolova's, did you have any conversations  5 with anybody from the Department?  6 A. Well, we met with -- Jerry and I met  7 with the Department Chair to discuss the cases.  8 Q. Okay. And that would be Professor  9 Tewfik?  10 A. That's correct.  11 Q. And am I pronouncing his name  12 correctly?  13 A. I don't believe that I pronounce his  14 name correctly.  15 Q. Okay.  16 A. I've never quite gotten the Egyptian  17 pronunciation down.  18 Q. Okay. I see it's spelled and I want  19 to say "Tewfik," but that would be doubly  20 incorrect?  21 A. Well, that's how -- I call it -- I  22 called him Ahmed Tewfik, but I don't believe that  23 is actually -- I think that's the English version  24 of it, his last name.  25 I don't believe that's how it would</p>
<p>147</p> <p>1 bar if she didn't rescind?  2 MR. DOWER: Objection;  3 form.  4 A. I do not know what Dr. Nikolova was  5 told because that would have been the Department  6 Chair talking with her.  7 BY MR. NOTZON:  8 Q. Okay. You have no information from  9 anyone that they had told her?  10 A. I have no information.  11 Q. Okay. When did you first learn that  12 Dr. Nikolova was wanting to go up in the 2018/  13 2019 year?  14 A. So in February of -- February/March  15 timeframe of 2018, each of the Department Chairs  16 was asked to provide summary information about  17 candidates who were being considered for  18 promotion in their Departments.  19 At this point in time Jerry and I  20 both did a very quick informal review of the  21 files, then met with the Department Chair and  22 shared any concerns, but the decision to move  23 forward with the case is based on a vote of the  24 Budget Council.  25 Q. The -- in the Department?</p>	<p>149</p> <p>1 be pronounced in Egypt.  2 Q. Okay. And so when you met with  3 Professor Tewfik, it was just you or you and Dr.  4 Speitel -- Speitel?  5 A. It would have been the three of us,  6 Ahmed, Jerry, and me.  7 Q. And do you recall your communication  8 to Chair Tewfik about Dr. Nikolova's proposed  9 candidacy?  10 A. I do not have -- I -- I have no  11 recollection of exactly what I said and I don't  12 have any notes based on that conversation,  13 however, I'm sure that we had a conversation  14 about the higher bar and higher expectations for  15 any early promotion case.  16 Q. Did you discuss her total years  17 counting A&amp;M?  18 A. That's part of the -- the information  19 that is submitted for review includes that  20 information. She would have submitted a CV at  21 the time, so it would have those years.  22 Q. Okay. Was there any discussion that  23 you recall about the ameliorating effect of  24 actually having enough time as an Assistant  25 Professor if she went up in the '18/'19 year?</p>

<p style="text-align: right;">150</p> <p>1 A. I -- I think those are all things 2 that were considered. That's all part of the 3 process, right. 4 Q. Do you recall if you provided any 5 constructive criticism about what she could do 6 based upon your initial review to make her 7 application more likely to succeed? 8 A. So at that time there was very little 9 that a candidate can do because this is February 10 and they -- they start preparing documents in the 11 May or June timeframe. 12 I think the discussion would have 13 been with Ahmed that any -- if this case is to 14 move forward, we have to be able to -- to explain 15 why the early -- the case is moving forward now. 16 Q. Okay. So you -- you don't think you 17 would have said, "Publish another couple of 18 papers," "Get -- get better teaching scores this 19 semester," you know, anything like that? 20 A. I don't know if she was teaching that 21 semester. I don't remember the details. 22 Q. No, I'm saying in general, just those 23 kinds of things. 24 A. I mean, I think that would be part of 25 the review process. I -- I just had a review</p>	<p style="text-align: right;">152</p> <p>1 BY MR. NOTZON: 2 Q. So if there are risks -- if -- so if 3 there are -- if there are risks that you 4 identify, they know that they might want to 5 strengthen those areas if they can? 6 A. Yes, or -- so I'm going to quote -- 7 I'm going to paraphrase what I infer from the 8 President's Committee, and that is every case has 9 some flat spots, but if you can identify the flat 10 spots and put them in context, that will help the 11 Committee make their final -- make their final 12 recommendations to the President, and if you 13 sweep something under the rug and don't address 14 it, that will be -- that will not be in the best 15 interests of the candidate. 16 So in some ways this is 17 counterintuitive because a lot of times people 18 only want to talk about the positives, so it's 19 important to address both the strengths and 20 weaknesses of the case. 21 And I think that's part of this 22 process is to identify, okay, these might be 23 potential weaknesses, now we don't have the full 24 dossier at this time, we have very slimline 25 information, these are potential weaknesses.</p>
<p style="text-align: right;">151</p> <p>1 yesterday with the Department Chair. 2 I rarely comment on -- I don't think 3 I've ever commented on -- well, I'd say I rarely 4 comment on the actual number of papers. 5 We certainly have been looking at -- 6 at teaching, looking at research funding, but at 7 that point there is very little a faculty member 8 can do. 9 What -- the discussion with the 10 Department is how high a risk is it to move 11 forward. 12 Q. But you don't -- 13 A. But as I say, my comments are -- my 14 comments are advisory because it is the decision 15 of the Budget Council when they want to put a 16 candidate forward. 17 Q. Right. Do you frequently or not 18 provide constructive criticism about the 19 application packet and its contents? 20 MR. DOWER: Objection; 21 form. 22 A. As I mentioned, I -- what I try to do 23 is identify what I see as risks of the case so 24 that the Department can put together the best -- 25 the strongest case possible for the candidate.</p>	<p style="text-align: right;">153</p> <p>1 Make sure you address them in the case. 2 And it's more the Budget Council and 3 the Department Chair rather than the candidate 4 because the candidate has complied most -- you 5 know, there's -- there isn't a lot of time for 6 the candidate to make significant changes at this 7 point. 8 Q. Do you -- in talking to the Chair, do 9 you indicate positive, negative, neutral chances 10 for the candidate that you're discussing? 11 A. Well, I -- I would identify -- I 12 would say, "I think this is a high risk and I 13 would recommend it not moving forward," or I 14 would say, "I think this is a slam dunk." Those 15 are the types of things that I would say. 16 Q. Okay. So you wouldn't -- you don't 17 have a policy of -- of uniformly providing a 18 neutral, flat, no response kind of thing for that 19 question? 20 A. I usually will give, as I indicated, 21 a level of risk do I think this will raise any 22 flags at the President's Committee based on my 23 previous experience with the President's 24 Committee, just based on a -- on a review of a 25 portion of the dossier.</p>

<p>154</p> <p>1 Q. And your -- your experience with the 2 President's Committee is in large part based upon 3 the prior candidates that have gone up; is that 4 correct?</p> <p>5 A. That is correct; right.</p> <p>6 Q. Okay. So at -- at that point in -- 7 in the 2018/2019 -- going into the 2018/2019 8 year, you have been the Dean for three years? 9 Four years? Yeah, four years at that point?</p> <p>10 A. So I -- I talked with the President's 11 Committee as Interim, so that'd be '13, '14, '15, 12 '16, '17.</p> <p>13 Q. So five?</p> <p>14 A. I would have had five interactions 15 with the Committee at that time.</p> <p>16 Q. Okay. But you -- you've got a pretty 17 good feel at that point?</p> <p>18 A. Right.</p> <p>19 Q. And at -- at that point were your -- 20 your experiences, the -- your observations of the 21 Presidents and the President's Committee's review 22 of candidates from the School of Engineering, 23 were you feeling com -- comfortable with your, 24 quote/unquote, predictions or reading the tea 25 leaves, as it were?</p>	<p>156</p> <p>1 recall any particular statement you made about 2 Dr. Nikolova's proposed candidacy in the Spring 3 of 2018; is that correct?</p> <p>4 A. So I know that we have been having 5 problems with the teaching evaluation scores from 6 classes, undergraduate classes, especially, in 7 ECE, so I'm sure I said something about, "We're 8 going to have address the teaching evaluations," 9 but that would probably be the extent of it.</p> <p>10 Q. And when you say "we were having 11 problems," you're talking about Dr. Nikolova's 12 scores particularly?</p> <p>13 A. No. There had been several cases 14 in -- in the two years before Dr. Nikolova's case 15 was considered where the President's Committee 16 had had a lot of questions about the -- the 17 course evaluation scores themselves and were 18 concerned that -- about the -- the teaching 19 within the Department.</p> <p>20 In -- in one case, Dr. Tewfik had to 21 accompany me to discuss the situation with the 22 President's Committee.</p> <p>23 Q. Did those concerns at the President's 24 Committee about ECE undergraduate teaching scores 25 result in any candidate being denied promotion</p>
<p>155</p> <p>1 A. Well, it's very difficult because I 2 don't have the entire case, so I'm --</p> <p>3 Q. I'm not -- let -- let me -- let me 4 clarify. I'm not talk -- I'm -- I'm not talking 5 at this point by -- about what you said or didn't 6 say to the -- to Chair Tewfik in March or April 7 of -- of 2018 as -- as much as when you talk 8 about expectations and your viewing a file, do 9 you feel like at five years you've felt like you 10 have a -- a good and consistent expectation of 11 how the applications or the candidates are 12 considered above you?</p> <p>13 A. I can share with the -- the 14 Department Chairs my observations from the 15 Committee things that the Committee have been 16 asking me in oral conversation about some 17 candidates, but it -- it is still a very 18 preliminary feeling just because I haven't done a 19 thorough review of the case.</p> <p>20 So it really is a highlighting to the 21 Department Chair what potential issues could be 22 so that they can think about them and then have 23 the Budget Council think about them before 24 making -- taking a vote.</p> <p>25 Q. Okay. And -- and again, you don't</p>	<p>157</p> <p>1 prior to the '18/'19 year --</p> <p>2 MR. DOWER: Objection; 3 form.</p> <p>4 BY MR. NOTZON:</p> <p>5 Q. -- while you were the Dean?</p> <p>6 A. So I'm -- I am struggling because we 7 did have a denial of promotion in ECE the year 8 before Dr. Nikolova's case was considered.</p> <p>9 I believe it was for a different 10 reason. I don't remember that individual's 11 teaching scores.</p> <p>12 I know that we had a facu -- a 13 Professor -- a candidate from Associate to full 14 who there were a lot of questions about that 15 individual's teaching scores when the promotion 16 case was considered, but it was approved.</p> <p>17 Q. Would it be accurate that you didn't 18 tell Chair Tewfik about Nikolova, that she 19 shouldn't go up in the Spring of 2018?</p> <p>20 MR. DOWER: Objection; 21 form.</p> <p>22 A. I have no recollection, however, I -- 23 I have no recollection of exactly what I told 24 him.</p> <p>25 I -- but I do -- at that time, as I</p>

<p>158</p> <p>1 mentioned, I was only giving advice, so it is</p> <p>2 not -- it was not my decision whether a candidate</p> <p>3 should move forward, so I would not have said,</p> <p>4 "Do not put this case up." I would have simply</p> <p>5 talked about the risks of putting the case up.</p> <p>6 Since then, the President's Committee</p> <p>7 has given -- has told the Deans, "You do have the</p> <p>8 authority to stop a case if it's not up-or-out."</p> <p>9 But at that time, we -- I did not</p> <p>10 have that authority or I didn't believe I had</p> <p>11 that authority, so I only would have given</p> <p>12 highlighted risks of the case moving before</p> <p>13 because it was not my decision. I was only</p> <p>14 serving in an advisory role at that point.</p> <p>15 Q. So that's a new authority that you</p> <p>16 didn't know you had? At least you didn't know</p> <p>17 you had it before if you had it.</p> <p>18 You -- you obtained this authority</p> <p>19 from the President's Office since the 2018/2019</p> <p>20 year?</p> <p>21 A. Right. That would have been conveyed</p> <p>22 to us during a Dean's Council meeting. I</p> <p>23 mentioned we had numerous discussions and --</p> <p>24 Q. Would that be documented?</p> <p>25 A. No. There are no -- there are no</p>	<p>160</p> <p>1 A. Well, there was a member of the --</p> <p>2 from EC -- a faculty member from ECE on the</p> <p>3 Promotion and tenure Committee, so if we can</p> <p>4 exclude any conversation with the Promotion and</p> <p>5 Tenure Committee...</p> <p>6 BY MR. NOTZON:</p> <p>7 Q. Yes.</p> <p>8 A. I believe that I sent some questions</p> <p>9 back just to clarify the case, which some would</p> <p>10 have been addressed to the Department Chair and</p> <p>11 some would have been addressed to Dr. Nikolova,</p> <p>12 but I did not have any oral conversations once I</p> <p>13 received the full package, no, and that is</p> <p>14 because our policy is that this review is based</p> <p>15 on the written documentation in the package.</p> <p>16 Q. Okay. So there's a process that's --</p> <p>17 that's provided that if there are questions, that</p> <p>18 they can be resolved in writing?</p> <p>19 A. That is correct.</p> <p>20 Q. And that's because if it's in</p> <p>21 writing, then everybody knows what happened and</p> <p>22 nobody can be accused of putting -- again,</p> <p>23 putting his finger on the scale one way or the</p> <p>24 other?</p> <p>25 A. Yes. So it -- it's transparent.</p>
<p>159</p> <p>1 Minutes from those meetings.</p> <p>2 Q. Okay. And that would have been after</p> <p>3 Dr. Nikolova's candidacy was denied?</p> <p>4 A. I'm not sure -- I'm not sure when</p> <p>5 exactly it happened. I think it was after her</p> <p>6 case was considered.</p> <p>7 I don't -- you know, the final</p> <p>8 decision -- it happened between when she</p> <p>9 submitted it and when the final decision was</p> <p>10 made. I don't know exactly where it was in that</p> <p>11 timeframe.</p> <p>12 Q. Okay. Was there ever a point where</p> <p>13 you didn't believe she should go -- Dr. Nikolova</p> <p>14 should go up for tenure prior to you considering</p> <p>15 her candidate -- candidacy package?</p> <p>16 A. No. I -- I made my decision when I</p> <p>17 reviewed the complete -- during my review of the</p> <p>18 complete package.</p> <p>19 Q. Okay. Did you have any conversations</p> <p>20 with anyone in ECE about Dr. Nikolova's</p> <p>21 application after the package came to you for --</p> <p>22 you and the Tenure and Promotion Committee for</p> <p>23 consideration?</p> <p>24 MR. DOWER: Objection;</p> <p>25 form.</p>	<p>161</p> <p>1 All -- all of that goes through Jerry's office,</p> <p>2 so I'm not the person asking.</p> <p>3 So when the candidate or the</p> <p>4 Department Chair gets the questions, they don't</p> <p>5 know if it's coming from the Promotion and Tenure</p> <p>6 Committee or from me, and then they respond in</p> <p>7 writing, and then the -- the case is updated --</p> <p>8 Q. Okay.</p> <p>9 A. -- with that information.</p> <p>10 Q. So for Dr. Nikolova, you recall</p> <p>11 providing questions to be -- follow-up questions</p> <p>12 to her -- her application?</p> <p>13 A. I recall at least one, yes.</p> <p>14 Q. Okay. Do you recall if the Tenure</p> <p>15 and Promotion Committee submitted any additional</p> <p>16 questions to your questions?</p> <p>17 A. I don't know because I would not be</p> <p>18 informed of their questions.</p> <p>19 Q. Okay. They can do it independent of</p> <p>20 you?</p> <p>21 A. That's correct.</p> <p>22 Q. Is the Tenure and Promotion Committee</p> <p>23 informed of your additional question?</p> <p>24 A. So what would happen is the staff</p> <p>25 member in Jerry's office, her name is Sonya</p>



<p>162</p> <p>1 Shaffer, would alert them that we had gotten some 2 new information and a portion of the document had 3 been updated. 4 Q. Okay. So after the fact, after 5 getting that response back from -- 6 A. That's right. After the response, 7 but in a very short timeframe because we don't 8 have a whole lot of time to review these 9 documents. 10 Q. Right. It's a long process, right. 11 Okay. So by the same token, you're 12 not informed if there's anything new in the 13 package from the Tenure and Promotion Committee 14 asking questions? 15 A. I don't necessarily see their 16 questions. If something is updated, I'll be told 17 it's updated. 18 Q. Right. So if it's updated, you would 19 understand where it came from? 20 A. Well, it would either come from me or 21 from them. They're the only people -- that's the 22 only two groups that can ask questions at this 23 point, so if I didn't ask it, it comes from them. 24 Q. Right. Okay. All right. I -- I was 25 just trying to get there through your testimony,</p>	<p>164</p> <p>1 about her teaching? 2 A. Well, the dossier includes data, it 3 includes a numerical summary, it includes all of 4 the peer eval -- written peer evaluations, it 5 includes a Budget Council statement, and it 6 includes the candidate's statement. 7 So after reading all those, I 8 honestly don't remember if I had additional 9 questions. I -- I don't remember. 10 But there's a lot of information to 11 read about teaching. 12 Q. Yes. And is there any -- do you know 13 if there's any record of you meeting with Chair 14 Tewfik about any changes to the rescinding of the 15 probationary extension? 16 A. I remember sending an email to Sonya 17 Shaffer, the admin in Jerry's office, to ask, 18 "Did Dr. Nikolova rescind," and I was told she 19 didn't. 20 That is all I ever -- I did not 21 have -- I -- that is -- that is the extent of my 22 memory. 23 Q. Okay. So would that be -- because 24 I'm -- I'm asking about not the results of the 25 communication. I'm asking you about do you</p>
<p>163</p> <p>1 but you didn't seem to want to -- 2 A. I'm sorry. 3 Q. -- volunteer that you actually would 4 eventually learn of their questions, so... All 5 right. I could have probably done that a little 6 more artfully, so... 7 And -- and do you remember what your 8 question was? 9 A. I remember asking a question about a 10 journal paper that -- I remember now two 11 questions. 12 One was about a journal paper, was it 13 actually in print, and another was, there was a 14 Ph.D. student listed with an expected graduation 15 date, and I asked did they actually graduate. 16 Q. Oh, okay. That was the one from the 17 Fall of 2018, the Ph.D.? 18 A. Yes. Or I -- I believe the person 19 graduated in the summer, so there was an August 20 2018 graduation date, and this -- on the CV it 21 was listed as anticipate -- "expected in," -- 22 Q. Right. 23 A. -- and I wanted to see if that had 24 happened or not. 25 Q. Okay. And so you didn't ask anything</p>	<p>165</p> <p>1 recall if there's any communication between you 2 and Chair Tewfik about the change in the process 3 of -- 4 A. Oh, I'm sorry. 5 Q. -- telling candidates that took a 6 probationary extension that they should consider 7 rescinding for the reasons we talked earlier? 8 A. We would have discussed that at a 9 Department Chairs meeting. 10 We would have discussed that at a 11 Department Chairs meeting. I don't know if that 12 was in -- I don't know if that's in our 13 guidelines or not. 14 Q. And you would presume that Chair 15 Tewfik would have had that conversation with all 16 the candidates that had taken a probationary 17 extension, but you don't know whether or not that 18 occurred? 19 A. Correct. 20 Q. Okay. 21 A. I do not know if it occurred. 22 Q. Right. 23 Was Dr. Nikolova the only candidate 24 from ECE that had taken a probationary extension 25 that year, you know, that go -- that went up for</p>



<p style="text-align: right;">166</p> <p>1 tenure consideration in '18/'19?</p> <p>2 A. So I know that Mohit Tiwari was also</p> <p>3 up for -- he was in his up-or-out year. He did</p> <p>4 not have an extension. I don't remember if there</p> <p>5 were other Assistant Professors from ECE. I'm</p> <p>6 sorry, I don't remember.</p> <p>7 And -- and on many of these</p> <p>8 questions, I'd be happy to check my files and</p> <p>9 answer, but I know that's not part of this</p> <p>10 deposition, so...</p> <p>11 Q. Okay. You're not restricted from</p> <p>12 that. If you want to, you're welcome to, but</p> <p>13 that's up to you.</p> <p>14 MR. DOWER: Dean, we --</p> <p>15 we've produced spreadsheets that</p> <p>16 have this information on it.</p> <p>17 It's up to you whether you</p> <p>18 want to do that, but I believe</p> <p>19 we've produced this information.</p> <p>20 THE WITNESS: I put</p> <p>21 this in a box folder that I asked</p> <p>22 our team to check with you. I</p> <p>23 just checked the file.</p> <p>24 There were only two Assistant</p> <p>25 Professors considered that year,</p>	<p style="text-align: right;">168</p> <p>1 change in practice?</p> <p>2 A. So remember I -- I talked about</p> <p>3 flat -- cases having flat spots?</p> <p>4 Q. Yes.</p> <p>5 A. So if a person is being considered at</p> <p>6 the normal time for promotion and there is a -- a</p> <p>7 weakness, a flat spot, and there could be a wide</p> <p>8 variety of them, then that's considered perfectly</p> <p>9 normal and that -- that doesn't necessarily --</p> <p>10 that -- that would not lead to a negative</p> <p>11 decision.</p> <p>12 But if the case is early, the</p> <p>13 expectation is that we don't have the flat spots,</p> <p>14 that we have -- that would be -- would be above</p> <p>15 the "meeting expectations" in each area, and, to</p> <p>16 be honest, the -- the well for "meeting</p> <p>17 expectations" is -- is based on a holistic review</p> <p>18 of the candidate.</p> <p>19 And I believe that's very important</p> <p>20 because there are many different domains within</p> <p>21 Engineering, and it would be inappropriate to</p> <p>22 judge someone outside their own domain.</p> <p>23 So even within ECE, for example, we</p> <p>24 have electrical engineers who have backgrounds in</p> <p>25 physics. They publish only in journals, whereas</p>
<p style="text-align: right;">167</p> <p>1 and, as I mentioned, Mohit Tiwari</p> <p>2 did not have an extension.</p> <p>3 BY MR. NOTZON:</p> <p>4 Q. Okay. From ECE?</p> <p>5 A. From ECE, that's correct; right.</p> <p>6 Q. And Provost McInnis, do you remember</p> <p>7 what her years of being the Provost were?</p> <p>8 A. Yes. So I told you I started in 2013</p> <p>9 and then Greg was -- was Provost until the Spring</p> <p>10 of 2015, then Judy Langlois was the Provost for</p> <p>11 an interim year, so that would have been the</p> <p>12 '15 -- so that means Dr. McInnis started in '16.</p> <p>13 Q. Okay. '16/'17?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And when did she stop?</p> <p>16 A. She resigned last spring, so he would</p> <p>17 have -- she would have still been here for the</p> <p>18 Fall of 2020.</p> <p>19 So I believe four years that she</p> <p>20 served on the President's Committee.</p> <p>21 Q. So when you were saying that there</p> <p>22 were changes to how high the bar would be in</p> <p>23 tenure promotion cases considerations, given that</p> <p>24 there is no specified height of the bar for any</p> <p>25 of the areas, what does that mean that it would</p>	<p style="text-align: right;">169</p> <p>1 the people who are in software engineering are</p> <p>2 publishing only in conferences.</p> <p>3 So where people choose to publish</p> <p>4 depends on what they -- their expertise and what</p> <p>5 the expectations in their domain are.</p> <p>6 So Dr. Nik -- Nikolova's a little in</p> <p>7 the middle. She had some journal publications,</p> <p>8 but primarily conference publications.</p> <p>9 Q. And that -- that factual distinction</p> <p>10 and the uniqueness of the -- the area of the</p> <p>11 Professor would -- could translate to all of the</p> <p>12 criteria, correct?</p> <p>13 Like for instance, funding, some</p> <p>14 researchers require greater amounts of money</p> <p>15 because of the nature of their research, lab work</p> <p>16 or fieldwork or you name it, with things that</p> <p>17 would cost more money than people that are doing</p> <p>18 theoretical work, would you agree?</p> <p>19 A. That is -- experimental work is going</p> <p>20 to cost much more than computational, theoretical</p> <p>21 work because you -- you need supplies, you need</p> <p>22 to -- maybe you're in -- you need mice, right, to</p> <p>23 do biomedical research.</p> <p>24 So absolutely there is a huge</p> <p>25 variation in the level of funding needed to</p>

<p style="text-align: right;">170</p> <p>1 sustain a research program.</p> <p>2 Q. And -- and the sources of that</p> <p>3 funding and what may be impacting those sources</p> <p>4 at any particular time.</p> <p>5 Also, like we were talking about the</p> <p>6 teaching evaluation scores, the -- whether or not</p> <p>7 it's a required undergraduate course or an</p> <p>8 elective graduate course, the median scores vary</p> <p>9 greatly?</p> <p>10 A. They do. For the specialty graduate</p> <p>11 courses that tend to be small, that's where</p> <p>12 faculty members tend to get -- in general, get</p> <p>13 their highest teaching evaluations, and then in a</p> <p>14 lower division, large undergraduate class, and</p> <p>15 especially a required class, would tend to be the</p> <p>16 lowest, that's correct.</p> <p>17 Q. And you want to take into account</p> <p>18 things like that as well as something that might</p> <p>19 be going on just contextually for each of the</p> <p>20 individual candidates?</p> <p>21 A. That is correct. So one of the</p> <p>22 things in particular with teaching evaluations is</p> <p>23 to look at the trend of the teaching evaluations</p> <p>24 in individual classes.</p> <p>25 So the first time that a faculty</p>	<p style="text-align: right;">172</p> <p>1 department where a faculty member commented that</p> <p>2 she was teaching while -- and she had just had a</p> <p>3 baby. The baby wasn't sleeping well, it was an</p> <p>4 8:00 o'clock class, and she just wasn't sleeping</p> <p>5 enough, and therefore, that allowed to put that</p> <p>6 semester in context that that -- it -- it made</p> <p>7 sense why the teaching evaluations were lower.</p> <p>8 Q. And either -- either the candidate</p> <p>9 will put that in their statement or the Budget</p> <p>10 Committee or the peer reviewers will put that in</p> <p>11 their statement, but if -- if the -- if the file</p> <p>12 has that context for you, then -- and -- or -- or</p> <p>13 you might already know those things as you're</p> <p>14 reviewing, that there's a context here that</p> <p>15 should be considered, like that it's an</p> <p>16 undergraduate required class with, you know,</p> <p>17 three times, four times more students than</p> <p>18 another undergraduate class?</p> <p>19 MR. DOWER: Objection;</p> <p>20 form.</p> <p>21 A. So the size of the class, where it is</p> <p>22 in the curriculum is all part of the</p> <p>23 documentation.</p> <p>24 The -- the tabular forms include</p> <p>25 the -- the course number and name and also the --</p>
<p style="text-align: right;">171</p> <p>1 member teaches a class, it might be -- the</p> <p>2 students might say it's disorganized because</p> <p>3 they're just developing their notes, but then by</p> <p>4 the second or third time they're teaching a</p> <p>5 class, you would expect you wouldn't see those</p> <p>6 comments and you would see that the faculty</p> <p>7 member is more comfortable presenting the</p> <p>8 material, knows where the students are, and you'd</p> <p>9 see an upward trend in the teaching evaluations.</p> <p>10 Q. And that's your -- that's considering</p> <p>11 that nothing else is going on?</p> <p>12 A. That is correct; right.</p> <p>13 Q. But for the -- that's taking into</p> <p>14 account the relevant issues that might be</p> <p>15 happening, which is you don't see any difference</p> <p>16 between the teacher teaching that semester versus</p> <p>17 a passage of time and experience to get to the --</p> <p>18 the next level?</p> <p>19 A. Right. So that's why specifically in</p> <p>20 the Cockrell School guidelines that are given to</p> <p>21 the faculty member to write their teaching</p> <p>22 statement, they're asked to identify any other</p> <p>23 factors that could influence -- could have</p> <p>24 influenced their teaching.</p> <p>25 I'm reminded of a case in another</p>	<p style="text-align: right;">173</p> <p>1 the number of students registered.</p> <p>2 I believe the Budget Council and also</p> <p>3 the candidate are asked to address directly if</p> <p>4 these are required classes, to provide that</p> <p>5 context. So that information is readily known.</p> <p>6 If the individual has another</p> <p>7 situation -- as I mentioned the -- the individual</p> <p>8 who had been -- the newborn child and the child</p> <p>9 wasn't sleeping well, that is not generally known</p> <p>10 by the Budget Council or it doesn't come out in</p> <p>11 factual data, which is why it's part of the --</p> <p>12 the candidate list it as one of the factors -- the</p> <p>13 candidate should include in their statement if</p> <p>14 there are other things they want us to consider.</p> <p>15 Q. And so back to the early high bar</p> <p>16 issues, if someone is going up, quote/unquote,</p> <p>17 "technically early," and you understand</p> <p>18 "technically early" means that they have prior</p> <p>19 time as a -- a faculty member in another</p> <p>20 university, added onto the time at UT which meets</p> <p>21 or exceeds the sixth year, that would be</p> <p>22 "technically earned"?</p> <p>23 MR. DOWER: Objection;</p> <p>24 form.</p> <p>25 A. The UT system rules state that prior</p>

<p style="text-align: right;">174</p> <p>1 service at another university does not count</p> <p>2 in -- as time in rank at UT -- at a UT system</p> <p>3 institution.</p> <p>4 BY MR. NOTZON:</p> <p>5 Q. Yeah, I'm not asking that. I</p> <p>6 understand that. I'm just trying to get a -- a</p> <p>7 definition of "technically early," meaning that</p> <p>8 there have been multiple Professors or faculty</p> <p>9 members that have gone up for tenure in the</p> <p>10 School of Engineering since you've been Dean that</p> <p>11 meet or exceed six years when you put the two</p> <p>12 experiences together, correct?</p> <p>13 A. That is correct.</p> <p>14 Q. But they have not six years or</p> <p>15 they -- they won't have had six years at the time</p> <p>16 they would go up?</p> <p>17 A. That is correct.</p> <p>18 Q. Okay. I've seen it referred to as</p> <p>19 "technically early." Is that not a term that</p> <p>20 you're familiar with?</p> <p>21 A. I don't think it was a formal</p> <p>22 definition, but we -- we probably did use it at</p> <p>23 some point, yes.</p> <p>24 Q. Okay. And when -- with Dr. Nikolova</p> <p>25 in the '18/'19 year when she went up, if you</p>	<p style="text-align: right;">176</p> <p>1 the six and a half?</p> <p>2 A. Well, no. Remember I told you that</p> <p>3 if you start in the middle of a year, it -- UT</p> <p>4 system policy says it doesn't count?</p> <p>5 Q. Right.</p> <p>6 A. So that -- that year, the '13/'14</p> <p>7 academic year, it didn't count toward her</p> <p>8 probationary service at UT Austin because --</p> <p>9 unlike the University of Illinois where I had the</p> <p>10 choice of counting that year or not counting it,</p> <p>11 UT Austin -- UT's system policy does not give the</p> <p>12 candidate the ability to make that decision.</p> <p>13 Q. So UT system would say six?</p> <p>14 A. I'm sorry?</p> <p>15 Q. UT system would say six would be the</p> <p>16 number, not 6.5?</p> <p>17 A. Correct.</p> <p>18 Q. Okay. But isn't it true that some</p> <p>19 candidates have gone up and instead of being on</p> <p>20 time "technically early," if you count both</p> <p>21 periods of time, even with the UT system rule of</p> <p>22 not counting half years, six or more years as an</p> <p>23 Assistant Professor at rank, as -- as it's</p> <p>24 called?</p> <p>25 There are several candidates that</p>
<p style="text-align: right;">175</p> <p>1 counted -- even with the probationary extension,</p> <p>2 is -- is it your understanding that she still did</p> <p>3 not have the time of the full -- she wouldn't</p> <p>4 have had the full six years counting both the A&amp;M</p> <p>5 and the UT time?</p> <p>6 A. I believe she would have had six</p> <p>7 years because she was considered two years early</p> <p>8 at UT and she taught two and a half years at</p> <p>9 Texas A&amp;M.</p> <p>10 Q. Okay. So she would have met the --</p> <p>11 the "technically early" definition? Or would she</p> <p>12 really have only been at five -- I -- I think</p> <p>13 we -- we covered this. She would have been at</p> <p>14 the 5.5, right?</p> <p>15 A. May I con -- if I could consult --</p> <p>16 Q. Yeah, please do.</p> <p>17 A. Okay. (Witness reviews documents.)</p> <p>18 Q. No, I think you're right. She would</p> <p>19 have been at 6.5?</p> <p>20 A. I believe that's correct; right.</p> <p>21 And -- and I said she "...will have served a</p> <p>22 total of eight years in rank as Assistant</p> <p>23 Professor (two and a half years at Texas A&amp;M and</p> <p>24 five and a half years at UT Austin)."</p> <p>25 Q. Minus the extension year gets you to</p>	<p style="text-align: right;">177</p> <p>1 have gone up with less than that, correct? So</p> <p>2 technically earlier, both prior to the six years</p> <p>3 at UT, but also not having enough to make six</p> <p>4 years when you combine them both?</p> <p>5 A. Yes, I -- I am thinking of at least</p> <p>6 one case where that was true, yes.</p> <p>7 Q. So would that mean that the bar would</p> <p>8 be triply high?</p> <p>9 MR. DOWER: Objection;</p> <p>10 form.</p> <p>11 A. So no. The -- the -- the height of</p> <p>12 the bar is based on the years of UT service is my</p> <p>13 understanding.</p> <p>14 BY MR. NOTZON:</p> <p>15 Q. Okay. So if somebody's three years</p> <p>16 early, that's triply high?</p> <p>17 A. That would be a high bar, but I -- I</p> <p>18 have -- have mentioned before that the</p> <p>19 President's Committee was changing their mind</p> <p>20 about some of these things during this period.</p> <p>21 Q. And if it's four years early, that's</p> <p>22 quadruply high?</p> <p>23 MR. DOWER: Objection;</p> <p>24 form.</p> <p>25 A. What I remember being told is that if</p>

<p>178</p> <p>1 it's more than one year early using UT's 2 policies, the bar is higher. I do not -- there 3 was no discussion of how high. 4 As you have mentioned before, because 5 this is a -- this is domain specific, and I think 6 the -- what the President's Committee was telling 7 us was urging caution in moving cases forward too 8 early. 9 They had -- they had seen trends they 10 weren't happy with, and I would say those trends 11 were across the entire University, and they 12 wanted us to -- to make changes. 13 BY MR. NOTZON: 14 Q. You said the trends were across the 15 University? 16 A. Well, when they were -- I only know 17 the trends that are -- 18 Q. But it's your -- I mean, that -- you 19 said that. 20 A. Yes, I did say that, yes. 21 Q. Okay. And how would you know that? 22 A. Because they discussed it with all 23 the Deans and not just with me. 24 Q. But you wouldn't have the details 25 associated with those situations?</p>	<p>180</p> <p>1 evaluation. So let's go ahead and pull that up. 2 (Exhibit 2 marked for identification.) 3 BY MR. NOTZON: 4 Q. I'm going to put it in the chat. 5 MR. DOWER: Robert, is 6 this -- we've been going for about 7 an hour. If we're transitioning to 8 a new topic, could we take our 9 customary like five-minute break? 10 MR. NOTZON: Sure. Let 11 me -- let me go ahead and put it 12 up there -- 13 MR. DOWER: Sure. That 14 way we can download it. 15 MR. NOTZON: -- so you 16 have it. Okay. This will be 17 Exhibit 2. 18 BY MR. NOTZON: 19 Q. Okay. And then Dean Wood, let me 20 know that you've got it and then we'll take a 21 break. 22 A. I have it. You're right, it went 23 much faster the second time. Thank you. 24 MR. NOTZON: Okay. All 25 right. See you in a bit.</p>
<p>179</p> <p>1 A. I do not, no. 2 Q. So when I asked how would you know 3 that there's a trend, you wouldn't know what 4 the -- what the actual trend was because you 5 wouldn't have the details of those specific 6 candidacies, correct? 7 A. Correct. However, there's been a lot 8 of discussion recently about promotion from 9 Associate Professor to full, and many of the 10 people on the Committee has -- have addressed 11 this at Dean's Council, and they've all given 12 their opinions, they've talked about why it's 13 important for someone to remain in rank as an 14 Associate Professor for the full term -- for the 15 normal term. 16 Q. I go -- let's not go into that since 17 we're not -- 18 A. Okay. 19 Q. -- we're not -- 20 A. But I can tell you that it is 21 expressed in multiple ways during oral 22 conversations during Dean's Council, so it is not 23 just within the Cockrell School. 24 Q. Okay. So you considered Dr. 25 Nikolova's candidacy, and you wrote an</p>	<p>181</p> <p>1 THE WITNESS: Okay. 2 Thanks. 3 THE COURT REPORTER: We're 4 going off -- we're going off the 5 record at 2:16 p.m. 6 (Recess held from 2:16 p.m. to 2:27 p.m.) 7 THE COURT REPORTER: We're 8 going back on the record at 2:27 p.m. 9 MR. NOTZON: Bob, you 10 need to say "Ready and recording"; 11 otherwise, we're going to -- 12 MR. SCHMIDT: Ready and 13 recording. 14 MR. NOTZON: Thank you. 15 BY MR. NOTZON: 16 Q. Okay. On Dr. Tiwari, I think you'd 17 mentioned that he had not taken a probationary 18 extension, but didn't he and then rescind it? 19 A. I don't know. 20 Q. Okay. You don't recall? 21 A. I'm not sure -- I don't recall. 22 Q. Okay. 23 A. I don't know. I'd have to check. 24 Q. Okay. I looked on the -- the 25 spreadsheet that was sent, and -- and there was</p>

<p>182</p> <p>1 no indication that -- well, there was no  2 indication that -- that a modified instructional  3 duty was taken, but if -- if a -- if a  4 probationary extension was taken and then  5 rescinded, it wouldn't show on the tenure  6 decision sheet, correct?  7 A. It would not show, that's correct.  8 Q. Okay.  9 A. If you would like -- if -- if you  10 would like me to check after the meeting, I can  11 look at the official files and see if he did.  12 I'd be happy to check on that if you'd like.  13 Just let -- let Ben know.  14 Q. Would that be in your Dean's  15 evaluation of his tenure application?  16 A. No.  17 Q. Because he would have rescinded?  18 A. That's correct.  19 Q. And he would have rescinded the  20 February or May, whenever --  21 A. In the Spring before the case was  22 considered, right.  23 Q. Okay.  24 A. If -- if that were the case. I do  25 not know if he had a -- if he requested an</p>	<p>184</p> <p>1 because their years of probationary service are  2 less than six, they could be considered again the  3 next year, and that's why they want people to  4 rescind so it's an official up-or-out case.  5 Q. Okay. And -- and so is it the case  6 that Dr. Nikolova was the only non-up-or-out case  7 that has gone up?  8 A. In what period of time?  9 Q. From 2018/2019 to the present.  10 MR. DOWER: Objection;  11 form.  12 A. I would have to check my records.  13 BY MR. NOTZON:  14 Q. Okay. The -- the change has happened  15 since then, correct? This -- this desire to only  16 go up the one time has happened as a result of  17 Dr. Nikolova's case?  18 A. No, it was discussed at least -- I  19 believe it was discussed before a decision was  20 made on her case. I don't remember if it was --  21 when it was in that year, but I believe --  22 because it -- it would have happened before her  23 case was considered.  24 Q. Well, then why does she get another  25 chance. If the whole purpose of making the</p>
<p>183</p> <p>1 extension.  2 Q. It wouldn't be in the packet? That's  3 the whole --  4 A. That's correct.  5 Q. That's the whole point of making the  6 deadline.  7 A. Right.  8 Q. And -- and -- and the -- the real  9 purpose of the deadline is so that everybody else  10 doesn't go through -- well, if you rescind or  11 not, you're still going up for tenure?  12 A. You are, that's correct.  13 Q. So that won't -- that won't change  14 all of that. It won't change -- it won't --  15 because I think you initially had said that you  16 want that to happen before the request for  17 letters go out, but the request for letters would  18 go out anyway, the letters would be written  19 regardless of whether there was a grace or an  20 extension or whether or not UT considers it early  21 or on time, correct?  22 A. Well, I -- I think I -- I mentioned  23 this earlier, the President's Committee wanted  24 people to only get one chance to be considered  25 for promotion, so if they don't rescind, then</p>	<p>185</p> <p>1 change was to only have one time, then she would  2 have been informed of that decision had it been  3 made prior to her decision, so it must not have  4 been made prior to a decision or she got treated  5 different, correct?  6 MR. DOWER: Objection;  7 form.  8 A. She was not treated differently. If  9 she had rescinded, she would have had five years  10 of probationary service, which would still not  11 have been up-or-out.  12 BY MR. NOTZON:  13 Q. It would still have her going up  14 twice?  15 A. Right. But the -- they -- they  16 didn't want -- I'm actually -- Dr. Nikolova's  17 case doesn't -- is not necessarily what they were  18 trying to prevent.  19 The -- before, they said -- their  20 statement said that if the reason why the  21 candidate has accumulated less than six years of  22 probationary service, it's because they had an  23 extension to the probationary period, and they're  24 going up at the time they normally would have  25 been considered before -- if they had not</p>

<p>186</p> <p>1 extended it, then you don't have to explain.  2 That's a very longwinded way of  3 saying -- an easier way of saying rescind and  4 then you're up-or-out and then we don't have to  5 explain it.  6 So if you don't want to use your --  7 if you don't want to use -- if you want to count  8 that year that was originally designated as  9 probationary -- non-probationary status, rescind  10 it, and then we just count years in rank, they're  11 the same as probationary years in rank, and  12 it's -- it would be -- it will be easier for the  13 recordkeeping.  14 So you'll -- you'll notice on this  15 cover sheet that you just sent me, it lists  16 "Total Times at UT Austin," "Total Years In  17 Rank," and then "Number of Years in Probationary  18 Status," so they're actually counting that  19 separately.  20 Q. Got it.  21 A. In some of the earlier --  22 Q. But I don't understand the idea of  23 when the decision was made that we're going to  24 promote a one-time only going up for -- for  25 tenure promotion and the decision is to rescind</p>	<p>188</p> <p>1 MR. DOWER: Objection;  2 form.  3 A. I don't think "threat" would be an  4 appropriate word, and I think there is a -- a  5 spreadsheet --  6 BY MR. NOTZON:  7 Q. Would it be accurate, though?  8 A. I don't believe it's -- I think  9 there's a spreadsheet that was "Possible  10 Decisions," and it's amongst the possible  11 decisions.  12 I don't want to get into the -- I --  13 I don't write the policy, and so I really don't  14 want to have to defend the policy.  15 Q. Okay. Then it's a stick?  16 MR. DOWER: Objection;  17 form.  18 A. I would not -- I -- I'm sorry. I  19 can't characterize the intent of the policy. It  20 is one of the many options available to the  21 President's Committee.  22 BY MR. NOTZON:  23 Q. Okay. Earlier we talked about  24 carrots and sticks and you agreed with me. Now  25 you won't.</p>
<p>187</p> <p>1 or not rescind and -- but that doesn't stop  2 someone from going up where even if they rescind,  3 they're [sic] still get a second bite at the  4 apple.  5 A. So I -- I think we are -- we're  6 talking about slightly different things. So I  7 agree with what you just said.  8 If someone has accumulated fewer than  9 six years of probationary status and they are  10 considered for promotion, UT policy would still  11 allow them to be considered multiple times,  12 however, the Commit -- the President's Committee  13 has the option of saying, "Do not promote," as  14 they did with Dr. Nikolova, or they could say  15 "Terminal appointment pending," which would not  16 give the candidate the chance to go up again.  17 And so they did not do that with Dr. Nikolova.  18 Q. Have they done that --  19 A. They said "Do not promote."  20 Q. Have they done that with anybody?  21 A. Not to -- I don't -- not within my  22 know -- my direct knowledge.  23 Q. Is that just a threat that the  24 President's Office now uses to try to motivate  25 candidates to rescind?</p>	<p>189</p> <p>1 MR. DOWER: Objection;  2 form.  3 BY MR. NOTZON:  4 Q. Is that accurate?  5 MR. DOWER: Same  6 objection.  7 A. I believe -- I believe it's accurate.  8 Maybe I'm getting tired, Sir. I'm sorry.  9 BY MR. NOTZON:  10 Q. Okay. Do you know if Dr. Nikolova  11 was told that she was under the possibility of  12 having a negative result of being told that she  13 was up-or-out after going up in '18/'19 if she  14 didn't rescind?  15 MR. DOWER: Objection;  16 form.  17 A. I'm sorry. I don't understand the  18 question.  19 BY MR. NOTZON:  20 Q. You just said that one of the options  21 the President has in reviewing a tenure  22 application is to say -- regardless of whether or  23 not they've used up their full six years of  24 probationary time at UT, that the President  25 could, in response to the application for tenure,</p>

<p style="text-align: right;">190</p> <p>1 say, "Ah, sorry. No pro -- no tenure and you  2 don't get any more chances," correct?  3 A. No, that is pub -- that's a published  4 policy on the Provost's website. I do not know  5 if Dr. Nikolova read the policy.  6 Q. When was that policy published?  7 A. It's update -- the Pro -- the  8 Provost's Office maintains policies every year.  9 They update -- keep them updated. I --  10 Q. Was that policy published and  11 available to Dr. Nikolova in the Spring of 2018  12 when she had to have withdrawn or rescinded her  13 probationary extension to not be potentially  14 penalized with an up-or-out decision when she was  15 not in an up-or-out year?  16 MR. DOWER: Objection;  17 form.  18 A. I'm sorry. I -- I don't agree with  19 how you're phrasing the question because Dr.  20 Nikolova was not in an up-or-out year as she was  21 when -- when her case was considered or if she  22 had rescinded she would not have been up-or-out.  23 BY MR. NOTZON:  24 Q. Right. But you said that the  25 possibility when she goes up for tenure, even</p>	<p style="text-align: right;">192</p> <p>1 clarification?  2 A. I thought I told you --  3 MR. DOWER: Objection;  4 form.  5 A. -- that I asked if the paper had been  6 published and if the Ph.D. student had graduated.  7 Those are the two I remember. I don't remember  8 if there were others.  9 BY MR. NOTZON:  10 Q. Oh, I'm -- I'm sorry. I -- thank you  11 for reminding me. I'm getting tired.  12 A. Yes.  13 Q. And -- and is it -- what if the  14 student had not graduated? Would that have been  15 a deal-breaker?  16 MR. DOWER: Objection;  17 form.  18 A. It's -- the case is evaluated on a  19 holistic basis. I told you there are strengths  20 and weaknesses that would have been -- that has  21 the potential to -- that is considered as a  22 weakness, but it is not -- it is not a deal-  23 breaker.  24 We have had a few cases go through  25 without that.</p>
<p style="text-align: right;">191</p> <p>1 though she's not in her up-or-out year, was that  2 the President could say, "This was your last --  3 your one and only chance, and you're gone; you're  4 up-or-out"?  5 A. That is a longstanding policy  6 that's -- that's posted on the President's -- on  7 the Provost's website.  8 Q. So for Dr. Nikolova it's your  9 testimony that should have been aware because  10 that policy was published and pre-existed Dr.  11 Nikolova applying for tenure or -- or that policy  12 was published prior to the Spring of 2018?  13 A. That policy has not changed since  14 I've been Dean, yes, sir.  15 Q. Okay. And -- but by the same token,  16 you're not aware of the President's Office ever  17 enforcing that policy and, in denying tenure,  18 taking the chance away from a second opportunity  19 if they weren't in their up-or-out year; is that  20 right?  21 A. I am not aware of that option ever  22 being used, that's correct.  23 Q. Okay, okay. And before we move on,  24 were you able to recall what the question is that  25 you sent down to Dr. Nikolova when you had a</p>	<p style="text-align: right;">193</p> <p>1 BY MR. NOTZON:  2 Q. Okay. One of the proverbial "flat  3 spots"?  4 A. That's correct.  5 Q. Okay. And just like the bar being  6 high to clear or the bar being wherever the bar  7 is to clear, being unknown and a moving target, a  8 flat spot is also a moving target?  9 MR. DOWER: Objection;  10 form.  11 A. So I mentioned that each case is  12 evaluated on holistic review based on the  13 individual's dom -- area of expertise, and so  14 the -- the expectation is that all faculty will  15 supervise and graduate -- and mentor graduate  16 students.  17 So have -- having a graduate student  18 graduate is one of the common expectations for a  19 promotion case, however, there are certain  20 circumstances where there may be extenuating --  21 extenuating circumstances where it might not be  22 possible.  23 And so that falls into the category  24 of the candidate would have to describe it, the  25 Budget Council would need to evaluate it, and it</p>



<p>194</p> <p>1 would need to be explained so that it could be 2 put in context with the President's Committee. 3 BY MR. NOTZON: 4 Q. And that -- that answered those for 5 every flat spot? 6 A. Yes, it does; right. 7 Q. And so I -- I also take it your 8 answer of -- of not -- not graduate -- having a 9 student that you're mentoring not graduate is an 10 undeniable flat spot because it's a binary you 11 either graduated or you didn't graduate? 12 A. Right. That's right. 13 Q. And graduating is what you're after, 14 getting them through. Okay. 15 The flat spot gets more subjective 16 when you talk about, let's say, funding, how much 17 funding is enough funding, that kind of thing? 18 A. Yes. 19 Q. Okay. All right. Let's go ahead and 20 look at your assessment of Dr. Nikolova. 21 Did you write this assessment start 22 to finish? 23 A. Start to finish, no. 24 Q. Did you start it? 25 A. I'm sorry. I'm hes -- I'm hesitating</p>	<p>196</p> <p>1 provided you? 2 A. Right, so I developed a list and then 3 they responded to my list, that's correct. 4 Q. Oh, your bullet points to them were 5 topics you wanted to hear from them on? 6 A. That's correct. 7 Q. And are those responses from that 8 committee, are they part of the packet? 9 A. No, they are not. 10 Q. Why not? 11 A. All that's required to be in the -- 12 in the doc -- in the University documentation, 13 all that is required is a vote of the Promotion 14 and Tenure Committee, and so that's what's 15 recorded on that cover sheet. 16 The -- the Dean's letter is also 17 required and the Dean's vote are required, so 18 this is the Dean's assessment and that's -- 19 that's what it is. 20 However, if -- if the Committee and I 21 disagree, which in this case we did, I'm under 22 the obligation to document where the Committee 23 and I disagreed and why. 24 Q. And we just have to take your word for 25 it?</p>
<p>195</p> <p>1 because -- 2 Q. Let me just ask you -- let me just 3 ask you: How did this get written? 4 A. Yeah, thank you. That's a much 5 better way. 6 So actually I'm going to change my 7 answer. When I first started as Dean the College 8 Promotion and Tenure Committee would write a 9 draft of the letter and then I would edit it, and 10 I found that that actually took more time than me 11 just writing the letter from the beginning. 12 So I was trying to remember the year 13 in which I asked the Committee to change from 14 drafting the letter to addressing specific 15 points. 16 And so the year that Dr. Nikolova's 17 case was considered was the first year that the 18 Committee did not draft the letter, but they -- I 19 had a series of bullet points on each item that 20 they addressed. 21 So in this case, I -- I was 22 incorrect, I did start -- I did write this from 23 start to finish myself. 24 Q. Okay, okay. So the list of bullet 25 points is what the Tenure and Promotion Committee</p>	<p>197</p> <p>1 MR. DOWER: Objection; 2 form. 3 A. Those -- those are the guidelines -- 4 those are the rules that's written in the UT 5 Promotion and Tenure Guidelines, yes. 6 BY MR. NOTZON: 7 Q. Okay. So that whatever written 8 record that justified the -- the Committee's 9 vote, there is no written record provided like 10 there is in the Budget Committee? 11 A. That's correct. That's -- that's in 12 accordance with UT guidelines, however, that 13 document was shared with your -- your team, so 14 you have those -- you have those bullet points. 15 Q. Oh, we do have those bullet points? 16 A. Yes, you do. 17 Q. And your bullet points and their 18 responses or just your bullet points? 19 A. Both. 20 Q. Okay. 21 A. So I think I posted on the box 22 folder. Hold on just a second. I posted on the 23 box folder the Promotion Checklist which is my 24 bullet point -- no, sorry. 25 The -- let me find it. Evaluation</p>

<p>198</p> <p>1 template. So let me -- I think I can also upload 2 that file. Okay. Just a minute. Let me do it a 3 different way. It may be easier. 4 MR. NOTZON: And Ben, 5 is this one of the documents we 6 recently received? 7 MR. DOWER: Yes. 8 THE WITNESS: The -- 9 MR. DOWER: This -- this 10 would have been one of the ones 11 that we provided recently. 12 THE WITNESS: This week. 13 MR. DOWER: Yeah. 14 MR. NOTZON: Of -- of 15 the unnumbered ones? 16 THE WITNESS: Right. 17 MR. DOWER: Yes. 18 MR. NOTZON: Okay. 19 MR. DOWER: I believe 20 this one went all the way -- let 21 me just see. What -- what did she 22 upload? Her evaluation tem -- I 23 believe we provided these on -- 24 what is today? I'm losing track. 25 I believe we provided you</p>	<p>200</p> <p>1 Q. Uh-huh. 2 A. -- who is the Administrative 3 Assistant in Jerry Speitel's office. 4 Q. Yeah. 5 A. She is the staff support for the 6 Cockrell School's Promotion and Tenure Committee. 7 And when -- when I met with the Promotion and 8 Tenure Committee, they gave me a hard copy. 9 I misplaced the hard copy and so I 10 asked Sonya to send me an electronic version so I 11 would have it. And that correspondence is 12 amongst the number of pages that you have that 13 you got from the legal team. 14 Q. Okay. So -- so we -- the -- the 15 Tenure and Promotion Committee's responses to 16 your bullet points here on Exhibit 3 are a 17 separate document? 18 A. Yes. And they are already in your 19 possession. 20 Q. Okay. And I -- I -- you -- you don't 21 know the Bates number of that document? 22 A. I could provide it at a later time if 23 you would like. 24 (Exhibit 3 marked for identification.) 25 BY MR. NOTZON:</p>
<p>199</p> <p>1 with these on Tuesday. 2 MR. NOTZON: Oh, we -- 3 I don't need to know the date. 4 I -- I know -- I remember -- 5 THE WITNESS: And then 6 the -- the legal team provided me 7 with some of the files they had 8 previously sent you. 9 I did review all those, and 10 I saw there was an email from me 11 to Sonya Shaffer that said, "I've 12 misplaced the Promotion 13 Committee's comments, and, Dr. 14 Nikolova, will you please send it 15 to me?" 16 She sent me the file, and the 17 file was attached to that email. 18 So that -- I've seen it in the 19 past week as I've been preparing 20 for the deposition. I don't know 21 the number, however. 22 BY MR. NOTZON: 23 Q. And you're saying Dr. Nikolova 24 provided that to you? 25 A. No. I wrote to Sonya Shaffer --</p>	<p>201</p> <p>1 Q. Okay. All right. So the Committee 2 voted unanimously for her -- for Dr. Nikolova's 3 promotion to tenure, correct? 4 A. That is correct. 5 Q. Did their responses to your bullet 6 points correspond with that unanimous support? 7 A. Yes. I -- I believe they talked 8 about the teaching being a potential weakness as 9 they were asked to iden -- identify strengths and 10 weaknesses, -- 11 Q. Okay. 12 A. -- but I would have to look at 13 that -- that directly, yes. 14 Q. Do you know, when -- when you were -- 15 when the Tenure and Promotion Committee was 16 meeting to discuss Dr. Nikolova's case, you were 17 present; is that correct? 18 A. No. 19 Q. Okay. 20 A. Oh, oh, I'm sorry. When they were 21 meeting to discuss her case? No. 22 Q. Okay. 23 A. Once they had reached a conclusion, 24 then I did meet with them and they presented 25 their conclusion -- their recommendation to me.</p>

<p style="text-align: right;">202</p> <p>1 Q. Okay.</p> <p>2 A. But I was not there when they were --</p> <p>3 when they were developing their own conclusions.</p> <p>4 Q. Okay. And when you said when they</p> <p>5 conveyed their recommendation to you, was that</p> <p>6 recommendation just the result of the vote, or</p> <p>7 was it responses to your bullet points here on</p> <p>8 Exhibit 3?</p> <p>9 A. No, I -- I mentioned that they gave</p> <p>10 me a hard copy of their response to my bullet</p> <p>11 points.</p> <p>12 Q. Yeah, but --</p> <p>13 A. They would do that for every faculty</p> <p>14 member, and then they would also tell me they're</p> <p>15 voting as -- as we continued the discussion.</p> <p>16 Q. Okay. So -- but when you met with</p> <p>17 them, they were conveying the result of the vote</p> <p>18 as well as the written document responses to your</p> <p>19 bullet points at the same time?</p> <p>20 A. So what happens is I could ask them</p> <p>21 questions because I've done an independent</p> <p>22 review, and I could ask, "Did you consider this?</p> <p>23 How did this factor into your opinion?"</p> <p>24 So normally they take a preliminary</p> <p>25 vote before they meet with me, and then they do</p>	<p style="text-align: right;">204</p> <p>1 then to identify key points that I want to</p> <p>2 discuss.</p> <p>3 Q. Okay. That said, their summary was</p> <p>4 still in support of her promotion?</p> <p>5 A. That's correct. And that's reported</p> <p>6 on the cover sheet. And it also is stated --</p> <p>7 it's stated in -- my "Overall Assessment" is "As</p> <p>8 noted previously, the Promotion and Tenure</p> <p>9 Committee strongly supported Dr. Nikolova's case"</p> <p>10 and it was reported --</p> <p>11 Q. When -- when you read from a</p> <p>12 document, --</p> <p>13 A. I'm sorry.</p> <p>14 Q. -- the -- the court reporter has to</p> <p>15 still take down every word, --</p> <p>16 A. I apologize. So I'm on the last</p> <p>17 paragraph of Page 3.</p> <p>18 THE COURT REPORTER: Thank</p> <p>19 you.</p> <p>20 A. "As noted previously" --</p> <p>21 BY MR. NOTZON:</p> <p>22 Q. You don't have to reread it, I'm sure</p> <p>23 she got you, she's real good, --</p> <p>24 A. Okay.</p> <p>25 Q. -- but don't make it go for her too</p>
<p style="text-align: right;">203</p> <p>1 their final vote afterwards to make sure that</p> <p>2 everyone has heard all the discussion, yeah.</p> <p>3 Q. And you recall -- is -- is it your</p> <p>4 testimony that you recall the Committee conveying</p> <p>5 to you verbally that they had an issue with her</p> <p>6 teaching?</p> <p>7 A. I believe it's amongst the -- I</p> <p>8 believe it is --</p> <p>9 Q. Responses?</p> <p>10 A. -- amongst the -- in the summary</p> <p>11 statement, right? The summary is essentially,</p> <p>12 "Make sure the Dean knows if there are any flat</p> <p>13 spots so that when she has to go and talk to the</p> <p>14 President's Committee she's prepared to address</p> <p>15 them." I believe it is listed there.</p> <p>16 That is my belief. I don't have that</p> <p>17 in front of me, but that is my -- my</p> <p>18 recollection.</p> <p>19 Q. Okay. And did you use their written</p> <p>20 responses to your bullet points as the start of</p> <p>21 your evaluation of Dr. Nikolova, Exhibit 2?</p> <p>22 A. Yes, it was -- it -- it was used</p> <p>23 extensively because they're -- they're compiling</p> <p>24 information from a hundred-page document into a</p> <p>25 three-page summary, which makes it easy for me</p>	<p style="text-align: right;">205</p> <p>1 long.</p> <p>2 A. Last paragraph of Page 3.</p> <p>3 Q. Okay. All right. Let's go ahead and</p> <p>4 go to your assessment.</p> <p>5 Do you think you're going to be able</p> <p>6 to identify the pieces of your evaluation in</p> <p>7 Exhibit 2 that you cribbed from the Committee and</p> <p>8 that -- and the ones that came from you</p> <p>9 specifically?</p> <p>10 A. No.</p> <p>11 Q. Okay.</p> <p>12 A. I mean, for example, I would have</p> <p>13 asked them to -- the bullet points under</p> <p>14 "Research."</p> <p>15 Q. You're talking about Exhibit 3?</p> <p>16 A. So Page 2, there are five bullet</p> <p>17 points under the topic "Research," so these are</p> <p>18 quantitative metrics.</p> <p>19 Q. You're talking about Exhibit 2, yes.</p> <p>20 Okay.</p> <p>21 A. I would have relied on the Committee</p> <p>22 to tell me if these were highly selective</p> <p>23 conferences related to algorithmic game theory</p> <p>24 and artificial intelligence.</p> <p>25 I -- I rely on their domain expertise</p>

<p style="text-align: right;">206</p> <p>1 and also what's in the Budget Council's 2 Statement. 3 Q. Yes. 4 A. They -- there's an impact after for 5 the journal she published in. I would have 6 relied on their statements there. I would not -- 7 yeah. 8 Q. You'd either rely on the -- well, 9 okay. Let me -- let me phrase it this way: 10 Did -- other than what the Committee gave you, 11 the Tenure and Promotion Committee -- am I saying 12 it wrong? It's "P&amp;T," not "T&amp;P"? 13 A. It's P&amp;T, right. 14 Q. Okay. Do you say "P&amp;T"? 15 A. I do say "P&amp;T." 16 Q. Okay. At least you're abbreviating 17 something. Okay. I like shortening it. So P&amp;T. 18 If the P&amp;T Committee gave you this 19 summary, did you look at anything else to write 20 your evaluation, or did you rely on what the P&amp;T 21 Committee gave you? 22 A. I read every part of the entire 23 dossier. 24 Q. Okay. So when they're summarizing 25 down to three pages, they're doing that for your</p>	<p style="text-align: right;">208</p> <p>1 an early promotion case, I had a long discussion 2 with them about what -- where the bar should be 3 for an early case, and I believe they felt, and I 4 think I stated this, that the Budget Coun -- I'm 5 sorry. 6 I'm on Page 1, second paragraph, "The 7 Budget Council in the Department of Electrical 8 and Computer Engineering felt that her total time 9 in rank was" submit -- "sufficient to warrant 10 consideration for promotion this year. 11 "The" coll -- the Cockrell School's 12 Promotion and Tenure Committee agreed with this 13 assessment." 14 So that was our fundamental 15 disconnect is that I have -- had sat in on five 16 or six, however many, of the President Committee 17 meetings where they had talked about how years 18 should be counted, how probationary service 19 needed to be counted, and the Committee said, 20 "Well, then that was indeed why I included the 21 little chart in my statement." 22 They said, "Well, if you look, her 23 total time in rank is about -- is -- that's how 24 much time someone should spend in rank." 25 And they found that to be compelling,</p>
<p style="text-align: right;">207</p> <p>1 benefit, but you don't have to rely on it? 2 A. Correct. 3 Q. And you don't rely on that? 4 A. I use it to make -- to see if there 5 are things -- make sure I haven't missed 6 something that they point out. 7 Q. Was there anything -- well, do you 8 ever rely the three-page summary only when you 9 write your evaluation? 10 A. No, I do not. I -- I am required by 11 the guidelines to do an independent 12 evaluation, -- 13 Q. Okay. 14 A. -- and I read every document -- 15 every -- all parts of every document. 16 Q. Do you follow up with the P&amp;T 17 Committee to ask them questions about why they 18 didn't say X, Y, or Z in their summary to you? 19 A. Yeah, sometimes I question -- I 20 question why they've taken a -- why I had a 21 different opinion than they have, that's correct. 22 Q. In Dr. Nikolova's case, do you 23 remember what questioning you did of the P&amp;T 24 Committee? 25 A. Yes. I asked them -- because this is</p>	<p style="text-align: right;">209</p> <p>1 but they were not present at all of the meetings 2 I've discussed with you, nor did they attend -- 3 do they attend the briefings with the President's 4 Committee and the Department Chairs. 5 So I think that was the fundamental 6 disconnect with this case. 7 Q. And this need to explain the early -- 8 the accelerated consideration, that had been -- 9 that had been the norm for the whole time you'd 10 been a Dean, correct? 11 A. It had, but I -- I told you that the 12 President was -- the President's Committee was I 13 think clarifying their intent in more detail, and 14 in the past in the Cockrell School this case -- a 15 case with this number of years in rank, we would 16 have said, "Well, this is technically -- 17 technically more than the total time -- normal 18 time in rank," and we would not have had as much 19 additional scrutiny. 20 Q. Is it your testimony that this year, 21 the 2018/2019 year, was the year that things 22 changed to become more heightened in the scrutiny 23 of accelerated consideration? 24 A. It is my testimony that -- well, 25 exactly what's occurring in this year, it could</p>

<p style="text-align: right;">210</p> <p>1 have possibly occurred in the previous year, but  2 I -- I know that we were -- in the time -- it was  3 in the timeframe when Greg Fenves was President,  4 Maurie McInnis was Provost, and Dan Jaffe was --  5 was Vice President for Research that these -- the  6 policies began to gel, and they spent more time  7 talking with us about reclarifying what is an  8 early case versus what is not an early case -- or  9 accelerated cases versus a normal time, so...</p> <p>10 Q. What is or -- what is and is not  11 accelerated and what will the consequences of  12 that accelerated consideration be?</p> <p>13 A. Right. So --</p> <p>14 Q. Can you tell us if those new policies  15 and procedures were implemented this particular  16 year, 2018/2019, for the first time?</p> <p>17 MR. DOWER: Objection;  18 form.</p> <p>19 A. So I -- I believe that to be the  20 case, because in my summary I said, "If this were  21 an up-or-out case, I would likely agree with the  22 recommendation of the Promotion and Tenure  23 Committee.</p> <p>24 Q. What does that have to do with the  25 timing of the new policy being implemented in</p>	<p style="text-align: right;">212</p> <p>1 of that is consistent with what the President's  2 Committee had been telling us, both in -- in  3 meetings with the Deans and in public when they  4 had their Deans and Department Chairs briefings.</p> <p>5 Q. Despite the fact that you have no  6 knowledge that Dr. Nikolova understands that two  7 years early means an even higher bar?</p> <p>8 MR. DOWER: Objection;  9 form.</p> <p>10 A. I honestly could not -- I do -- I  11 have not spoken directly with Dr. Nikolova,  12 therefore, I have no direct knowledge of what she  13 knows or does not know.</p> <p>14 BY MR. NOTZON:</p> <p>15 Q. You do know that there is nothing in  16 writing that says two years early is even a  17 higher bar than one year early?</p> <p>18 A. I do know that, yes.</p> <p>19 Q. And you do know that there's nothing  20 in writing that says three years early is even  21 higher than that, correct?</p> <p>22 A. I agree we have no written policy.</p> <p>23 Q. Do you also agree that there are  24 people that have gone up for tenure that are more  25 than two years early that have flatter spots than</p>
<p style="text-align: right;">211</p> <p>1 this year? I don't -- I don't see the connection  2 there.</p> <p>3 A. Okay. That's a very good question.  4 I had never used that -- that type of wording  5 before, and I -- this is -- in my mind, what this  6 statement is saying is that there is a clear  7 distinction between the -- the up-or-out case or  8 the higher bar required for early promotion.</p> <p>9 So I -- I -- I write the letter  10 essentially to the President's Committee, and  11 that's what I'm trying to -- that's my intent  12 here.</p> <p>13 And I -- I apologize, this is Page 4  14 [sic], the first paragraph, that if it were an  15 up-or-out case, right, we know there are some  16 flat spots.</p> <p>17 I'm not saying I would agree, but I'm  18 saying the chance -- that there's a greater  19 likelihood I would agree with the Promotion and  20 Tenure Committee, but because I understand --  21 because the next sentence says, "However, Dr.  22 Nikolova is being considered for promotion at UT  23 Austin two years early."</p> <p>24 So to me that's saying, "Wait. It's  25 two years early, so we have a higher bar." All</p>	<p style="text-align: right;">213</p> <p>1 Dr. Nikolova?</p> <p>2 MR. DOWER: Objection;  3 form.</p> <p>4 A. I agree that there are some people  5 who went up more early. Using this current  6 definition, you have flat spots, yes.</p> <p>7 BY MR. NOTZON:</p> <p>8 Q. Flatter than Dr. Nikolova?</p> <p>9 A. I would not be able to make that  10 assessment without doing a complete review of all  11 the cases, which I have not done.</p> <p>12 Q. Okay. Did you review Dr. Nikolova's  13 rebuttals and appeals to your decision --</p> <p>14 A. I --</p> <p>15 Q. -- in your -- not your decision, but  16 your evaluation?</p> <p>17 A. Right; my recommendation. I did,  18 yes.</p> <p>19 Q. And did you not see her arguments  20 that she had higher performance measures and  21 metrics in the several criteria areas than the  22 people that had been given tenure in the years  23 prior?</p> <p>24 A. So as -- as I told you, we don't do  25 that sort of comparison because the domains are</p>

<p style="text-align: right;">214</p> <p>1 so different.</p> <p>2 I believe that her comparison was</p> <p>3 actually -- I had no input, so she -- she wrote</p> <p>4 a response to my letter, and then she also had</p> <p>5 a -- wrote to the President and to CCAFR, the</p> <p>6 Committee of Counsel on Academic Freedom and</p> <p>7 Responsibility.</p> <p>8 Although I read that information, I</p> <p>9 have no input into those decisions, so I -- I</p> <p>10 do -- I do not believe that one can compare</p> <p>11 across different domains.</p> <p>12 I can tell you, though, that some</p> <p>13 cases that were promoted were early promotions --</p> <p>14 accelerated promotions that happened before Dr.</p> <p>15 Nikolova's case had flat spots. I agree with</p> <p>16 that assessment.</p> <p>17 Q. You're saying you can't compare</p> <p>18 across domains, but that's, in fact, what you</p> <p>19 did, didn't you, when you're evaluating her and</p> <p>20 her teaching scores?</p> <p>21 A. So I'd like to call your attention to</p> <p>22 Exhibit 3, which is what I've put up.</p> <p>23 So you'll see there's Item No. 1</p> <p>24 there. And this is related to teaching, and</p> <p>25 there are five bullet points.</p>	<p style="text-align: right;">216</p> <p>1 asked the Promotion and Tenure Committee to look</p> <p>2 at, and only one is a numerical ranking.</p> <p>3 Q. Did your evaluation of Dr. Nikolova</p> <p>4 cover all five of those bullet points?</p> <p>5 A. It did.</p> <p>6 Q. Did it accurately document Dr.</p> <p>7 Nikolova's responses -- I mean, Dr. Nikolova's</p> <p>8 responses on those five bullet points?</p> <p>9 A. I did not -- I did not include in my</p> <p>10 statement comments about the peer reviewers, for</p> <p>11 example, and I know this is something that Dr.</p> <p>12 Nikolova commented on, because the peer reviewers</p> <p>13 were quite -- quite complimentary of her</p> <p>14 teaching.</p> <p>15 Q. Effusive, nonetheless?</p> <p>16 A. Yes. Amongst the President's</p> <p>17 Committee, it is actually almost -- it is a</p> <p>18 comment they bring up often is that there is this</p> <p>19 fundamental disconnect between the peer reviewers</p> <p>20 and the students because it's very rare that a</p> <p>21 peer reviewer has constructive feedback for the</p> <p>22 faculty member.</p> <p>23 As a matter of fact, the Electrical</p> <p>24 and Computer Engineering Department changed their</p> <p>25 policies to try to have more reflection in</p>
<p style="text-align: right;">215</p> <p>1 The first bullet point is related to</p> <p>2 CIS rankings, and you'll notice that there is</p> <p>3 something there about what types of course, it's</p> <p>4 "required, undergraduate, undergraduate</p> <p>5 elective."</p> <p>6 The second bullet point -- bullet</p> <p>7 point addresses student comments.</p> <p>8 The third bullet point, it says, "Did</p> <p>9 the faculty member" actually -- "accurately</p> <p>10 capture the primary concerns raised by the</p> <p>11 students in their teaching statement?</p> <p>12 "Did they implement changes to</p> <p>13 address the concerns? Was the faculty member</p> <p>14 successful in improving their teaching in rank?"</p> <p>15 "Did the Department" -- the fourth is</p> <p>16 did the Department provide mentoring? "Did the</p> <p>17 peer reviewers address any of the same concerns</p> <p>18 raised by the students? Did the peer reviewers</p> <p>19 provide substantive feedback to the faculty</p> <p>20 member?"</p> <p>21 And then "Is there anything notable</p> <p>22 in the faculty member's development as a teacher</p> <p>23 that should be highlighted," (as read).</p> <p>24 So in the discussion of teaching,</p> <p>25 there are five points that I had specifically</p>	<p style="text-align: right;">217</p> <p>1 both -- by both the candidate and the peer</p> <p>2 reviewers to provide more assistance to a</p> <p>3 candidate.</p> <p>4 Q. Doctor -- I mean, Dean Wood, let me</p> <p>5 ask you some questions about your evaluation</p> <p>6 under "Teaching" of Dr. Nikolova.</p> <p>7 You referred to her having a</p> <p>8 "downward trend" when she had one outlier score</p> <p>9 of the four, and all the other three were within</p> <p>10 one -- point one-tenth of a point of each other,</p> <p>11 correct?</p> <p>12 A. I agree with your assessment, yes.</p> <p>13 Q. And she was teaching two large</p> <p>14 classes in the same semester when she got that</p> <p>15 outlier score, correct?</p> <p>16 A. Yes.</p> <p>17 Q. And she was pregnant during that</p> <p>18 semester, correct?</p> <p>19 A. I did -- I did not know that at the</p> <p>20 time that I wrote my statement.</p> <p>21 Q. Regardless if you knew that or not,</p> <p>22 there was one outlier score in a semester where</p> <p>23 she's teaching two large classes of a required</p> <p>24 undergraduate class that is purported and known</p> <p>25 to be one of the more difficult required courses</p>

<p style="text-align: right;">218</p> <p>1 in the college that she -- that Dr. Nikolova was  2 complimented for stepping up to the plate and  3 taking on that responsibility for the Department,  4 correct?  5 MR. DOWER: Objection;  6 form.  7 A. So I -- I -- I disagree with several  8 of the comments you just made.  9 BY MR. NOTZON:  10 Q. Tell me which ones, because I'm  11 quoting from those peer reviews. But go ahead.  12 A. Okay. So the faculty will often  13 claim, and within any Department, that a given  14 class is the hardest one in the curriculum.  15 That is probably the most frequent  16 comment that I see when I read all these  17 promotion dossiers.  18 Q. I didn't say "hardest."  19 A. Greg Iverson --  20 Q. I didn't say "hardest."  21 MR. DOWER: I'm going  22 to -- I'm going to ask that you  23 let the witness finish the answer,  24 please.  25 MR. NOTZON: Sure.</p>	<p style="text-align: right;">220</p> <p>1 was one of the hardest," that I also made other  2 statements about that course being two large  3 required courses, which are also known to be  4 sources of downward scores, correct?  5 MR. DOWER: Objection;  6 form.  7 A. So if one -- if a faculty member was  8 teaching the same class, then -- and the trend  9 is -- is going up, that indicates that they're  10 getting better in the class, and that is an  11 indication that they're becoming more familiar  12 with -- with the class.  13 MR. NOTZON: Object;  14 nonresponsive.  15 A. They're also understanding student  16 expectations, so --  17 BY MR. NOTZON:  18 Q. This is nonresponsive.  19 A. -- by comparing her trends in the  20 class, I'm not comparing her with -- I -- I first  21 did a comparison with other people, and now I'm  22 looking at her alone.  23 She's teaching a large class but  24 she's taught it now three or four times and it  25 has remained flat or slightly downward.</p>
<p style="text-align: right;">219</p> <p>1 A. One of the members of the President's  2 Committee is Brent Iverson, who teaches Organic  3 Chemistry, and so he has specifically said that  4 he does not found the technical content of the  5 class to be a mitigating circumstance because  6 he's teaching Organic Chemistry to 500 people at  7 a time.  8 So what the President's Committee  9 likes to see is that there is -- regardless of  10 where the faculty member starts in the class, but  11 as they teach the class more frequently and they  12 become more familiar with the background of the  13 students and also with the expectations, that  14 there will be an increase in the course  15 evaluations.  16 So I agree with you, I was -- I  17 should have said a -- "has remained flat" rather  18 than, I'll -- I'll say, "have fallen," but there  19 certainly was not an upward trend in her  20 teaching, which is -- normally occurs when a  21 faculty member teaches a class in their third or  22 fourth time.  23 BY MR. NOTZON:  24 Q. And you would agree with me that your  25 response was quibbling with -- when I said "It</p>	<p style="text-align: right;">221</p> <p>1 MR. NOTZON: Object as  2 nonresponsive.  3 BY MR. NOTZON:  4 Q. My -- my -- my question is  5 specifically about all the components that  6 affected Dr. Nikolova in that one semester  7 teaching two of the four data points, where one  8 of them is exactly the same as the prior one, the  9 other one is point two-tenths -- point two points  10 away, so not a horribly low score comparatively,  11 and she's teaching both of them at the same time  12 with large student populations.  13 And you say she didn't know she  14 was -- you didn't know she was pregnant at the  15 time. You know, be that as it may, those other  16 mitigating factors are still there and you know  17 that.  18 So -- but you don't mention any of  19 that. You don't provide any explanation or  20 discussion that there's anything other than "She  21 should have gotten a higher score; she should  22 have an upward trend," period, without discussing  23 any of these factors, correct?  24 MR. DOWER: Objection;  25 form.</p>



<p style="text-align: right;">222</p> <p>1 A. I did not discuss other factors,  2 however, the President's Committee does read the  3 case, the size of the class -- the class size is  4 documented in several tables, so that would have  5 been very obvious to them, too.  6 BY MR. NOTZON:  7 Q. But you didn't attempt to explain  8 that flat spot, did you?  9 A. I did not attempt to -- to describe  10 that, no -- explain that, no.  11 Q. Is -- you -- you -- you criticize her  12 for the Teaching Assistant comment that she wrote  13 in her teaching assessment which she was quoting  14 the students complaining about the Teaching  15 Assistant's scoring and assignments.  16 Did -- did you also -- why didn't you  17 question her as part of your questioning as to  18 what she meant by what the Teaching Assistants  19 were being asked to do and not do?  20 MR. DOWER: Objection;  21 form.  22 A. So Dr. Nikolova wrote a statement  23 that specifically addressed her teaching. She  24 was asked to reflect on the teaching, make  25 comments about how the -- the students' comments</p>	<p style="text-align: right;">224</p> <p>1 directly to the Teaching Assistants, and in all  2 of my reading of teaching statements amongst  3 everyone who's been promoted in the Cockrell  4 School up to this time, this was -- this was, I  5 thought, the most direct deflection of taking  6 responsibility; that everything that happens in  7 the classroom is the faculty mem -- member's  8 responsibility.  9 And so to say -- to blame some of the  10 negative comments -- well, not -- I don't want to  11 use "some." I -- I inter -- when I read it I  12 interpreted it to be a majority of the negative  13 comments directly to the Teaching Assistants I  14 believed was not taking responsibility for the  15 class.  16 Q. So if you felt that strongly about  17 this issue, you didn't feel a need to ask Dr.  18 Nikolova to explain herself, --  19 A. Well, actually, I gave --  20 Q. -- the follow-up questions that you  21 sent her?  22 A. Actually, I gave her the opportunity  23 to. So I -- I called Ahmed after I had made my  24 ne -- after I made my negative recommendation,  25 and I wanted Dr. Nikolova -- Nikolova to know.</p>
<p style="text-align: right;">223</p> <p>1 had impacted her teaching, and she -- I'm  2 paraphrasing now. I don't have her comments  3 directly in front of me.  4 But she indicated that she received  5 positive comments, but all the negative comments  6 were associated to the Teaching Assistants, and  7 then -- and that --  8 BY MR. NOTZON:  9 Q. She didn't say "all of them," did  10 she?  11 A. I said I was paraphrasing, I did not  12 have it in front of me, so I'm -- please give me  13 a little leeway here.  14 Q. Well, "all" -- "all" is hard. It's  15 hard to give you --  16 A. Okay. I'll say -- how 'bout we  17 change it to "most"? "Most" of the negative  18 comments were related to the Teaching Assistants.  19 Are you okay with that?  20 Q. No, but go ahead.  21 A. Okay. A -- a -- a fraction --  22 actually, --  23 Q. "Some"?  24 A. "Some." Okay. I'll use "some." But  25 there was -- she said she had attributed them</p>	<p style="text-align: right;">225</p> <p>1 And I said, "She has two options. She can  2 provide a written rebuttal to this that will be  3 included in this -- in the case when it goes to  4 the President's Committee so they will see her  5 response to this, so if I have misrepresented her  6 case, she will be able to provide that  7 information directly to the decision-makers.  8 Alternatively, she has the option of  9 withdrawing her case so that if the Committee  10 agrees with my decision, she would not have a  11 negative decision on her record.  12 And she, indeed, did decide to submit  13 supplemental document to rebut my statement. So  14 I did give her the opportunity to respond.  15 MR. NOTZON: Object as  16 nonresponsive.  17 BY MR. NOTZON:  18 Q. That wasn't my question, Dean Wood.  19 My question is: If you felt so  20 strongly about this issue with Teaching  21 Assistants, which, according to your testimony  22 and the way you presented, you do, why didn't you  23 ask her in your follow questions before making  24 your final decision to explain herself on this  25 issue?</p>

<p style="text-align: right;">226</p> <p>1 A. So my follow-up questions in most 2 cases are -- I can't remember any case that it 3 isn't -- are really in the quantitative nature 4 of, as I mentioned, the two cases to you, did 5 this student graduate, did -- was a proposal 6 funded, was -- was this paper published. 7 When a candidate has the ability to 8 write a statement, I don't then ask questions 9 about their statement. I take their statement on 10 face value. 11 Q. Another quantitative issue was did 12 you mean to contradict the philosophy within the 13 School of -- of Engineering when you wrote what 14 you wrote? 15 MR. DOWER: Objection; 16 form. 17 A. I'm sorry, I don't understand the 18 question. 19 BY MR. NOTZON: 20 Q. You -- you know, if this is so 21 important and you're saying that she has -- her 22 statement contradicts the philosophy within the 23 Cockrell School of Engineering, if -- if that's 24 something that's so critical to you and you're 25 going to rely on this and her -- her funding as</p>	<p style="text-align: right;">228</p> <p>1 So having one extra question in there 2 would not have added more time, would it? 3 MR. DOWER: Objection; 4 form. 5 A. No, I -- I disagree. 6 BY MR. NOTZON: 7 Q. How would it have added time? 8 A. Excuse me, would you like me to 9 answer the question? 10 Q. How would it add more time? 11 A. Because I -- I reviewed the CV first, 12 and I tried to make sure there's clarification on 13 all of the -- the quantitative information the 14 CV. 15 Then I -- I read each case at least 16 once, possibly twice. That takes a considerable 17 amount of time. 18 There are also more than ten cases 19 being considered each -- in each review cycle. 20 So there may be a significant gap between when I 21 send the initial -- that set of questions that I 22 mentioned requesting clarification and when I 23 finish this -- my -- my letter. 24 MR. DOWER: Robert, 25 it's been about an hour. Can we</p>
<p style="text-align: right;">227</p> <p>1 the two main reasons why you're not going to 2 promote her -- support her promotion and tenure, 3 and opposition to both your P&amp;T Committee and the 4 Budget Council and the Chair, you -- you're not 5 going to give her one opportunity to explain 6 herself? 7 MR. DOWER: Objection; 8 form. 9 A. Sir, she did have an opportunity to 10 address it. 11 BY MR. NOTZON: 12 Q. And she did, didn't she? 13 A. Excuse me? 14 Q. She did, didn't she, but only after 15 you ruled against her? 16 A. In some respect I think timing has to 17 do with this. I often save my toughest case to 18 last, and so there -- there's not time to get the 19 case in. 20 So by providing her an opportunity 21 afterwards, she had -- she could see that -- my 22 entire statement and she could response to it. 23 Q. You can't really rely on timing, Dean 24 Wood, can you, because you sent her follow-up 25 questions.</p>	<p style="text-align: right;">229</p> <p>1 take a break relatively soon? 2 MR. NOTZON: Not just 3 yet. 4 MR. DOWER: Okay. Well, 5 then I would like the record to 6 reflect that you are banging the 7 table as you shout at my witness. 8 MR. NOTZON: I don't 9 think that's accurate, and good 10 thing it's recorded. Okay, so... 11 Especially when I'm way over here 12 and she's way over there, I 13 don't -- I -- I -- even if that was 14 happening. That's silly. 15 BY MR. NOTZON: 16 Q. Okay. Dean Wood, you -- you next 17 fault Dr. Nikolova for her research, and you say 18 that you -- it raises questions about the 19 sustainability of her research funding. 20 And -- but you don't give any 21 explanation for what those questions are and how 22 they contradict the findings of the Budget 23 Committee -- the Budget Council and your P&amp;T 24 Committee. 25 Can you explain that?</p>

<p style="text-align: right;">230</p> <p>1 A. Yes. The Vice President of Research,  2 that's Dan Jaffe, would often ask questions about  3 how many grants continue beyond the end of the --  4 the year that's being under review. Is there  5 sufficient funding to support all the members of  6 the research group?  7 So that's why I'm saying that because  8 so much of the funding occurred early, it -- it  9 raises some questions of whether there's  10 continuity of funding.  11 Q. Are you finished?  12 A. Yes.  13 Q. Doesn't that depend on how much  14 funding she needs and over what period of time  15 and how much funding she has?  16 A. Yes, it does.  17 Q. And -- and did you go through that  18 analysis? Because according to every other  19 person that's written on this, she had excess  20 funds based upon those criteria.  21 MR. DOWER: Objection;  22 form.  23 A. I don't believe -- I believe Dr.  24 Nikolova talks about excess funds. I don't  25 believe others talked about excess funds.</p>	<p style="text-align: right;">232</p> <p>1 forward.  2 Q. And -- and why was that not  3 sufficient amount of time given what she also  4 wrote about her ability to get funding from her  5 track record at that time?  6 A. So I checked the University records.  7 In three years she actually spent a million  8 dollars of research expenditures from grants and  9 contracts, so that -- that was a bit of an  10 exaggeration to say over seven years she spent a  11 million dollars.  12 Secondly, she was given a startup  13 package that included her summer salary, graduate  14 student years, and also some discretionary money,  15 and so I believe that that -- those funds, which  16 are -- allowed her to main -- have a large  17 research group, but she was not paying those  18 people with a grant from grant funds.  19 So if one takes into account how much  20 a grant would have to pay for graduate students,  21 and I believe she referred to a group of four,  22 and her own summer salary, and them some money  23 for travel, tuition, all these other things that  24 were added on, computers, her -- her -- I -- a  25 projection of two and a half years is a -- I</p>
<p style="text-align: right;">231</p> <p>1 And I disagree with her assessment.  2 BY MR. NOTZON:  3 Q. They say -- they talk about  4 sufficient funds, don't they?  5 A. "Sufficient" and "excess" are not the  6 same.  7 Q. "In excess of her needs" would be  8 "sufficient," wouldn't it?  9 A. Okay. So --  10 Q. "Yes" or "no"?  11 A. Yes.  12 Q. Okay.  13 A. I -- I would like to provide  14 clarifying information, however.  15 Q. No, thank you.  16 We talked earlier about what kind of  17 dollars are needed for what kind of research, and  18 do you recall Dr. Nikolova's response to your  19 criticism about her funding, the sustainability  20 of her funding?  21 Do you recall that --  22 A. Yes, I -- I believe she said that she  23 had spent a million dollars and all of her time  24 and rank up to that time, and she had about two  25 and a half years of research funding moving</p>	<p style="text-align: right;">233</p> <p>1 believe is an over -- is an exaggeration, and  2 that -- and it does -- her funding did not last  3 that long.  4 Q. And you're the only one that caught  5 that?  6 MR. DOWER: Objection;  7 form.  8 A. There are many cases where I -- I do  9 a more detailed evaluation than the Budget  10 Council or the -- or the Promotion and Tenure  11 Committee because I -- I see so many more cases  12 than they do, and I also know the questions that  13 the President's Committee asks me.  14 So it takes a lot of time and -- to  15 cull through all this information, and many times  16 the Committees don't put that time in. So yes, I  17 was the only one that saw that.  18 BY MR. NOTZON:  19 Q. Why did you refer to her funding in  20 terms of years instead of prior to UT and at UT  21 like you do in other evaluations?  22 A. So she was able to transfer some of  23 her research funded that she was awarded grants  24 at Texas A&amp;M and then was able to transfer them  25 to UT and spent them here, so I considered her</p>

<p style="text-align: right;">234</p> <p>1 entire time in -- in rank as an Assistant  2 Professor.  3 Q. But you also criticized her for not  4 having additional funding, even though she got  5 funding at UT?  6 A. Right. So one of the things that --  7 one of the trends that we like to see for someone  8 who's being considered for promotion is that the  9 funding starts -- starts low, as any Assistant  10 Professor would, and then it increases during  11 their time in rank.  12 And so I noted that her first -- I  13 would say in the '13/'14 and '14/'15 academic  14 year, things were on a great track, and then she  15 spent a year -- there was a year that was not --  16 her modified instruct -- she had her probationary  17 year, she spent time at UC Berkeley, she had --  18 did not teach, she had the birth of her first  19 child, and after that it didn't seem as if the --  20 the growth was being sustained at the same level.  21 And so very often in these  22 assessments the Department Chairs and the Budget  23 Council look at average funding, and I think that  24 trends are -- in terms of -- the -- the trends  25 are actually very important in these assessments.</p>	<p style="text-align: right;">236</p> <p>1 downward trend because she ended up getting a  2 large infusion of money to start, which -- which  3 was -- in a total amount, but it was scheduled  4 over a period of years.  5 It was meant to go over a period of  6 years and was used over a period of years.  7 A. You're right, it was.  8 Q. So to call that a downward trend  9 is -- was that not really fair, was it?  10 A. As I mentioned, very often in  11 promotion cases, the ones that are successful,  12 you'll see that more grants are coming in toward  13 the end of the probationary period so that the  14 faculty member is getting more funding.  15 And the size of the group, you know,  16 as -- as the startup funds diminish, they're able  17 to pick up the -- the -- the difference with  18 their research funding.  19 Q. Let's go back to the teaching. I  20 want to look at Footnote 2 on Page 2 of Exhibit  21 2.  22 You refer to "16.5 percent of the  23 instructor ratings for tenure and tenured-track  24 faculty in the Cockrell School are 3.7 or below."  25 So you're comparing her across the</p>
<p style="text-align: right;">235</p> <p>1 And we -- we've seen this not only in  2 promotion cases but other evaluations of faculty.  3 Q. Why is a trend important instead of  4 sufficient funding important based upon the needs  5 of the research program?  6 A. Well, I told you, there's a  7 fundament -- I -- Dr. Nikolova and I disagree on  8 how much funding is required to support her  9 research group of four people, and because she  10 had so much startup funds that came in when she  11 started at UT, she was able to use those funds to  12 cover a -- a large portion of her research group.  13 Those funds expire after about two  14 years, so she would need more funding to pay --  15 from grants to pay for that same size research  16 group.  17 Q. Why would she -- and my next question  18 is: Why would she be penalized for getting a  19 high initial set of funding instead of the norm  20 that you're used to seeing, like you testified,  21 of a new Assistant Professor starting off small  22 and growing?  23 A. She was not penalized for starting  24 strong.  25 Q. You're -- you're saying she had a</p>	<p style="text-align: right;">237</p> <p>1 entire College of Engineering, regardless of the  2 type of course it is, regardless of the required  3 course, regardless of how many students are  4 there, and to make it worse, you're using her one  5 outlier score the one time where she's teaching a  6 double overloaded course as the number that  7 you're pegging her to, instead of at least using  8 her average.  9 Why did you --  10 MR. DOWER: Objection;  11 form.  12 BY MR. NOTZON:  13 Q. Why did you do that?  14 MR. DOWER: Objection;  15 form.  16 A. That's a very good question. I --  17 BY MR. NOTZON:  18 Q. Do you think that's fair to comment  19 on her outlier score?  20 A. Well, it -- it's what I did at the  21 time, so I definitely felt it was fair at the  22 time.  23 Q. Or you felt it would put her in the  24 least favorable light, correct?  25 MR. DOWER: Objection;</p>

<p style="text-align: right;">238</p> <p>1 form.</p> <p>2 A. Well, I'm -- I was trying -- I mean,</p> <p>3 I also have to defend what I write, and so it's</p> <p>4 very clear from this that I picked one number and</p> <p>5 I'm providing the context for it.</p> <p>6 So I -- I'm not -- so I'm -- I'm</p> <p>7 defending my assessment, yes.</p> <p>8 Q. Nobody has to believe that your</p> <p>9 intent in this document was to be fair, do they?</p> <p>10 MR. DOWER: Objection;</p> <p>11 form.</p> <p>12 A. I need to do an independent</p> <p>13 assessment, Sir, and I did an independent</p> <p>14 assessment.</p> <p>15 BY MR. NOTZON:</p> <p>16 Q. That's your testimony but that's for</p> <p>17 a jury to decide, isn't it?</p> <p>18 MR. DOWER: Objection;</p> <p>19 form.</p> <p>20 A. I did an independent assessment as</p> <p>21 required of me as Dean of Cockrell School of</p> <p>22 Engineering.</p> <p>23 BY MR. NOTZON:</p> <p>24 Q. I'll take that as your answer.</p> <p>25 What about Footnote No. 4 on that</p>	<p style="text-align: right;">240</p> <p>1 And then you also want to know are</p> <p>2 some of her papers being recognized from UT</p> <p>3 Austin, so 42 citations based on work at UT</p> <p>4 Austin is also quite high.</p> <p>5 So that's the context in which it's</p> <p>6 presented is that you -- you expect citations to</p> <p>7 grow as a faculty mem -- as a faculty member</p> <p>8 spends more time in rank, and it's not</p> <p>9 immediately apparent when looking at these</p> <p>10 citations what -- which are based on work that</p> <p>11 they've done at UT.</p> <p>12 So I've been -- I've been adding</p> <p>13 this, this is consistent, this is the things that</p> <p>14 I do in -- in every evaluation, really since</p> <p>15 the -- the President's Committee has started</p> <p>16 looking at the trends and citations.</p> <p>17 I find it's very helpful to talk out</p> <p>18 how -- how well their work is represented --</p> <p>19 their work at UT is represented within the</p> <p>20 community.</p> <p>21 MR. NOTZON: Object as</p> <p>22 nonresponsive.</p> <p>23 BY MR. NOTZON:</p> <p>24 Q. That whole -- that whole answer</p> <p>25 followed my question of do you know when that</p>
<p style="text-align: right;">239</p> <p>1 same page? What was your intent in citing to</p> <p>2 work that she had completed during her graduate</p> <p>3 studies at MIT?</p> <p>4 Let me ask a -- a -- a preliminary</p> <p>5 question first. The paper that was cited, when</p> <p>6 was the paper published?</p> <p>7 MR. DOWER: Objection;</p> <p>8 form.</p> <p>9 A. That information is included in the</p> <p>10 dossier because we asked the candidates to</p> <p>11 include the -- the front page of their Google</p> <p>12 Scholar profile on -- from the website.</p> <p>13 So I don't know when it was -- when</p> <p>14 it was published; it includes her entire history.</p> <p>15 And so what happens is the h-index and the</p> <p>16 citations are very dependent on one's research</p> <p>17 domain, and also, if one does a post-Doc, really</p> <p>18 the -- the prominence of who they worked with in</p> <p>19 a grad school and post-Doc.</p> <p>20 And so this is providing context</p> <p>21 that, you know, she -- she has a very highly</p> <p>22 cited paper, it's more than 10 percent of her</p> <p>23 total citations, it's -- so it establishes that</p> <p>24 she has a very good reputation about her graduate</p> <p>25 students.</p>	<p style="text-align: right;">241</p> <p>1 paper was published.</p> <p>2 A. It's elsewhere in the do -- in the</p> <p>3 dossier.</p> <p>4 Q. Okay.</p> <p>5 A. I don't know off the top of my head.</p> <p>6 Q. Thanks. Just, you know, that was the</p> <p>7 question.</p> <p>8 So based upon what you just said, it</p> <p>9 sounds like you were also trying to show a</p> <p>10 downward trend in the citations of her papers.</p> <p>11 MR. DOWER: Objection;</p> <p>12 form.</p> <p>13 A. Absolutely not.</p> <p>14 BY MR. NOTZON:</p> <p>15 Q. Okay.</p> <p>16 A. Citations take time to develop.</p> <p>17 Q. Right. So the longer a paper exists,</p> <p>18 the more likely the citations will grow?</p> <p>19 A. That's correct.</p> <p>20 Q. Especially if the issue written about</p> <p>21 has legs, as it were?</p> <p>22 A. That is correct.</p> <p>23 Q. Influence in the community?</p> <p>24 A. Correct.</p> <p>25 Q. What I see lacking in this letter is</p>

<p style="text-align: right;">242</p> <p>1 any kind of -- or not "any," but very few  2 adjectives that put Dr. Nikolova's work in  3 context or a descriptive context that exists if  4 many of your -- of the Deans' evaluations of  5 other faculty members that you're supporting.  6 I don't see -- would you agree with  7 that, that you have fewer adjectives describing  8 Dr. Nikolova's work than you use in other papers?  9 A. I have not done --  10 MR. DOWER: Objection;  11 form.  12 A. -- that assessment. I can tell you  13 that the Provost encouraged me to write shorter  14 letters.  15 BY MR. NOTZON:  16 Q. Would you agree that you also didn't  17 put in the positive comments which were -- the --  18 the great majority of the comments from the  19 students on Dr. Nikolova were positive comments  20 from the students?  21 MR. DOWER: Objection;  22 form.  23 A. I know that there were many positive  24 comments, and, you're right, I did not refer to  25 them.</p>	<p style="text-align: right;">244</p> <p>1 from the external reviewers that were all from  2 institution -- peer institutions that are higher  3 ranked than UT?  4 MR. DOWER: Objection;  5 form.  6 A. The President's committee asked me  7 specifically not to include quotes in my letter.  8 This was a change that they asked all of us to  9 implement.  10 The only difference to that is if  11 there was a negative comment in the letter, they  12 want it to be addressed in the Dean's letter.  13 So that is a change that has  14 occurred -- that occurred in response to -- to  15 the President's Committee. And I -- I do not  16 believe that all of the letter writers came from  17 higher-ranked institutions.  18 BY MR. NOTZON:  19 Q. Most of them?  20 A. I do not -- I -- I believe most did,  21 but I do not -- not all.  22 Q. Okay. And -- and you are  23 specifically tasked with approving the letter  24 writers for each candidate, correct?  25 A. That is correct.</p>
<p style="text-align: right;">243</p> <p>1 BY MR. NOTZON:  2 Q. Do you know that they were -- a good  3 two-thirds, at least, if not more, of the  4 comments were positive comments?  5 MR. DOWER: Objection;  6 form.  7 A. I do not know that. I have read all  8 the comments, but I do -- have not -- I've not  9 tried to -- attempted to quantify them.  10 BY MR. NOTZON:  11 Q. Well, you know Dr. Nikolova in her  12 rebuttal to your evaluation did quantify them?  13 A. I believe she did, yes.  14 Q. So you do -- you have read it at one  15 point?  16 A. I have.  17 Q. We already talked about how you  18 didn't cite any of the positive comments from the  19 peer reviewers and how they gushed about her  20 teaching, correct?  21 MR. DOWER: Objection;  22 form.  23 A. That is correct.  24 BY MR. NOTZON:  25 Q. Did you include any of the quotes</p>	<p style="text-align: right;">245</p> <p>1 Q. And so when you got Dr. Nikolova's  2 list of proposed letter writers, you approved  3 those?  4 A. That is the policy. I do not  5 remember exactly when I approved her's, but that  6 is the policy, and I believe that that was  7 followed.  8 Q. And so that would have also been the  9 case of you approving the letter writers for  10 other candidates that had letter writers from  11 non-peered institutions, correct?  12 A. So the policy changed since -- while  13 I was Dean and when it was required to -- for the  14 Dean to approve the letter writers.  15 I don't remember what year that  16 changed, but that has changed since I've been  17 Dean. The other --  18 Q. Has -- I'm sorry. Go ahead.  19 A. The other issue that I know Dr.  20 Niko -- Nikolova brought up was in reference to  21 another candidate in a -- in a Department that  22 had -- where --  23 There are very few Departments of  24 Petroleum Engineering across the U.S., and so in  25 that specific example there was one international</p>

<p style="text-align: right;">246</p> <p>1 reviewer, there was one member from a non-top ten  2 ranked Department, and all the other reviewers  3 were from top ten ranked Departments of Petroleum  4 Engineering, even though they may not have been  5 from what are normally considered to be peer-  6 reviewed universities.  7 Q. And why didn't you identify that in  8 your evaluation of that candidate?  9 A. The -- if -- if -- if an individual  10 is -- or if a faculty member is from a top ten or  11 top twenty ranked Department, that's considered  12 to be appropriate for the review. And so --  13 Q. But --  14 A. And if a -- if a faculty member is  15 not in a top ranked Department, then they ask for  16 some sort of reason, and being an actual Academy  17 member is sufficient reason to go out of a -- to  18 a lower-ranked university or lower-ranked  19 Department.  20 Q. Can you tell me why you mention Dr.  21 Nikolova's getting pregnant --  22 A. I'm sorry. I --  23 Q. -- in this letter.  24 A. I'm sorry. Where is that?  25 Q. You -- you mentioned it at least a</p>	<p style="text-align: right;">248</p> <p>1 year.  2 MR. NOTZON: Object as  3 nonresponsive.  4 BY MR. NOTZON:  5 Q. My question is not that she didn't  6 teach in that year or the reasons for why she  7 wasn't teaching in the Fall of 2015.  8 The question was why did you mention  9 the pregnancy or the getting pregnant part?  10 MR. DOWER: Objection;  11 form.  12 BY MR. NOTZON:  13 Q. You could have, could you not, said  14 that she was given modified instructional duty,  15 you could say what she did in the Fall of 2015,  16 you could -- and -- and -- and the -- the benefit  17 to Dr. Nikolova's exposure and -- and  18 professional reputation, but also the service to  19 the community and the reputation of UT was also  20 benefitted by that, and then you could say that  21 she was given modified instructional duty for the  22 Spring semester, but you didn't, did you?  23 MR. DOWER: Objection;  24 form.  25 A. You're correct. I was, I believe,</p>
<p style="text-align: right;">247</p> <p>1 couple of times, but the one I'm -- your first  2 mention of it is in Footnote No. 1 on Page 2.  3 MR. DOWER: I'm going  4 to object to form.  5 A. So the reason for that is Dr.  6 Nikolova did not teach during the '15/'16  7 academic year, and that -- that's actually my  8 first statement on the top of Page 2.  9 And so the President's Committee is  10 interested in knowing why -- or what the norms  11 are for teaching in each Department, and then if  12 there's a deviation from the norm.  13 So it was important to recognize that  14 she was allowed to spend the Fall semester at UC  15 Berkeley, so she was not in residence, this was  16 something that the Department Chair felt was  17 important for her professional development, and  18 then she had agreed to teach two classes in the  19 Spring, but she did not teach those two classes  20 because she was expecting -- I believe her first  21 child was born during that Spring semester, so  22 she was placed -- she requested modified  23 instructional duties.  24 So this was an explanation of why Dr.  25 Nikolova did not teach in the '15/'16 academic</p>	<p style="text-align: right;">249</p> <p>1 paraphrasing what the Department Chair said in  2 his letter, and you're absolutely right, I could  3 have deleted the first phrase and just said, "She  4 was assigned modified instructional duties for  5 the spring semester," you're correct.  6 BY MR. NOTZON:  7 Q. Were you also trying to penalize her  8 for having been irresponsible and getting  9 pregnant while she was away in the Fall semester  10 when she was expected to teach two classes in,  11 quote/unquote, payment for that time away?  12 MR. DOWER: Objection;  13 form.  14 A. That was never my intent. That never  15 crossed my mind.  16 BY MR. NOTZON:  17 Q. You don't see that in your Footnote  18 1?  19 A. As you mention it, I see how it could  20 be interpreted that way, but that was not my  21 intent.  22 Q. "However, she became pregnant," even  23 though she was scheduled for two classes in the  24 Spring semester.  25 How could you take it any other way</p>



<p>250</p> <p>1 if you're in the business?</p> <p>2 MR. DOWER: Objection;</p> <p>3 form.</p> <p>4 A. I've already -- I've already</p> <p>5 addressed my intent, I believe. That was not my</p> <p>6 intent as you're explaining it.</p> <p>7 BY MR. NOTZON:</p> <p>8 Q. You also state that since that</p> <p>9 academics year, she's just fallen off. She's just</p> <p>10 not the same person that she used to be before</p> <p>11 she got pregnant.</p> <p>12 MR. DOWER: Objection;</p> <p>13 form.</p> <p>14 BY MR. NOTZON:</p> <p>15 Q. Isn't that correct?</p> <p>16 A. I said that her instructor ratings</p> <p>17 fell. I did not link it to children or</p> <p>18 pregnancy.</p> <p>19 Q. Didn't you? You say that right after</p> <p>20 Footnote 1 is there on the top of Page 2.</p> <p>21 In Footnote 1, it specifically talks</p> <p>22 about her getting pregnant while she was away</p> <p>23 from UT at another program, correct?</p> <p>24 A. You have correctly read the document,</p> <p>25 but that was not my intent. As I told you, I</p>	<p>252</p> <p>1 Q. And in fact, her Department was</p> <p>2 raving about her innovations in the classroom and</p> <p>3 in the curriculum which were adopted by other</p> <p>4 award-winning faculty members like your</p> <p>5 associate, Dean Julien.</p> <p>6 You talked about how wonderful she</p> <p>7 wrote the assessment of her teaching and how</p> <p>8 wonderful she was, correct?</p> <p>9 MR. DOWER: Objection;</p> <p>10 form.</p> <p>11 A. I believe you're characterizing the</p> <p>12 statements in the dossier correctly.</p> <p>13 BY MR. NOTZON:</p> <p>14 Q. And she then went back to Simons in</p> <p>15 the Spring of 2018 after, quote/unquote, "paying</p> <p>16 for the per -- privilege to go by the double big</p> <p>17 class in the Fall semester," despite being</p> <p>18 pregnant, and she organized -- along with tenured</p> <p>19 Professors, she was the only nontenured Professor</p> <p>20 as an organizer, correct?</p> <p>21 MR. DOWER: Objection;</p> <p>22 form. Robert, when you say</p> <p>23 "quote/unquote," are you quoting</p> <p>24 yourself? What are you quoting?</p> <p>25 MR. NOTZON: You can</p>
<p>251</p> <p>1 look at trends, and I -- this was a trend, was</p> <p>2 that the teaching ratings are -- were lower after</p> <p>3 that semester.</p> <p>4 Q. Let's put the cherry on top by</p> <p>5 looking at the top paragraph of Page 4 of Exhibit</p> <p>6 2. And you don't just talk about her following</p> <p>7 the 2015/2016 school year having fallen off, you</p> <p>8 talk specifically about, "These concerns are</p> <p>9 compounded by the fact that both her teaching and</p> <p>10 her external funding have dropped since she spent</p> <p>11 the 2015 Fall semester at UC Berkeley,"</p> <p>12 parentheses, "(getting pregnant)," closed</p> <p>13 parentheses?</p> <p>14 MR. DOWER: Objection;</p> <p>15 form.</p> <p>16 A. No, sir. She spent a semester on --</p> <p>17 to -- away from UT Austin to enhance her</p> <p>18 professional -- her professional career.</p> <p>19 BY MR. NOTZON:</p> <p>20 Q. And she did enhance her professional</p> <p>21 career and UT's reputation for having her,</p> <p>22 correct?</p> <p>23 A. She did enhance her professional</p> <p>24 career and therefore it had an impact on UT</p> <p>25 Austin, correct.</p>	<p>253</p> <p>1 object, Mr. Dower.</p> <p>2 MR. DOWER: Okay.</p> <p>3 Objection; form.</p> <p>4 MR. NOTZON: Thank</p> <p>5 you.</p> <p>6 A. She did go back to -- to this</p> <p>7 institute at UC Berkeley, and she did organize a</p> <p>8 semester-long workshop, and the other faculty</p> <p>9 members were more senior than she, yes.</p> <p>10 BY MR. NOTZON:</p> <p>11 Q. And that was an increase in -- in her</p> <p>12 responsibilities and exposure, and increased</p> <p>13 reputation, correct?</p> <p>14 A. I believe that to be true.</p> <p>15 Q. And you don't make any statement</p> <p>16 about that upward trend, do you?</p> <p>17 A. I do mention that workshop during the</p> <p>18 Spring 2018 as part of her professional service.</p> <p>19 Q. You mention the fact of it, but you</p> <p>20 don't characterize it. You don't put an</p> <p>21 adjective on it. You don't put it in context of</p> <p>22 it being an upward trend, do you?</p> <p>23 A. I did provide the context of "The</p> <p>24 Simons Institute is the world's leading venue for</p> <p>25 collaborative research in theoretical computer</p>

<p>254</p> <p>1 science," so that provides the context of the 2 importance of this. But you're right, I did not 3 describe an upward trend. 4 Q. You provide the importance of the 5 Institute. You don't provide the importance of 6 her participating and you don't talk about your 7 assessment of that participation being something 8 that you view as important to either her career 9 or UT's reputation, do you? 10 A. I -- 11 MR. DOWER: Objection; 12 form. 13 A. I did state that the other four 14 organizers were tenured faculty members and -- 15 and I gave the names to say they were very highly 16 ranked universities. 17 So I provided the context of that 18 related to her professional service so that it 19 could be -- that context could be -- that the 20 members of the Pres -- President's Committee 21 could put her work in context. 22 BY MR. NOTZON: 23 Q. While you don't provide any positive 24 assessment of it, you just provide the fact, 25 correct?</p>	<p>256</p> <p>1 Committee members that were particularly vocal 2 about -- in their support of Dr. Nikolova? 3 A. The -- the Chair of the Promotion and 4 Tenure Committee that year was Dr. Nikolova's 5 mentor, and I did not know that at the time, so 6 he -- he also is the ECE representative. 7 So I think he was very -- I -- I -- I 8 didn't know that at the time I wrote this letter, 9 either, just to put that in context. 10 I believe he was a very strong 11 supporter for Dr. Nikolova. 12 Q. "Was" meaning no longer, or "was" 13 meaning at the time? 14 A. No, you asked me at the time that I 15 met with him, and so that's why I used the past 16 tense. 17 Q. Okay. Just to clarify. 18 I have seen a bunch of emails from 19 ECE faculty members responding to Dr. Nikolova's 20 email kind of publicly airing her displeasure 21 with your evaluation and -- and -- and denial of 22 tenure. 23 Have you seen those emails, as well? 24 A. I did not deny tenure. The President 25 made the decision. I made a recommendation in my</p>
<p>255</p> <p>1 MR. DOWER: Objection; 2 form. 3 A. I provided the facts, yes. 4 BY MR. NOTZON: 5 Q. Did Dr. Nikolova -- has Dr. Nikolova 6 run out of funding for her research here two 7 years later? 8 A. I cannot answer that question with 9 authority. 10 MR. NOTZON: Let's take 11 a break. 12 MR. DOWER: Okay. 13 THE COURT REPORTER: We're 14 going off the record at 4:00 o'clock 15 p.m. 16 (Recess held from 4:00 p.m. to 4:14 p.m.) 17 THE COURT REPORTER: And 18 we are back on the record at 4:14 19 p.m. 20 MR. SCHMIDT: Okay. And 21 we are back recording, as well. 22 BY MR. NOTZON: 23 Q. Okay. Dean Wood, during the P&amp;T 24 Committee consideration of Dr. Nikolova and your 25 interaction with them, were there any of the P&amp;T</p>	<p>257</p> <p>1 independent assessment. 2 Q. A recommendation to deny? 3 A. To not promote at this time, that's 4 correct. 5 Q. Yep. All right. And thank you for 6 keeping me to that accuracy on what your 7 responsibility was. 8 So what was my question? 9 A. You asked me if I had seen the 10 responses from the faculty members. 11 Q. Yeah. 12 A. And the answer is no. Dr. Tewfik 13 forwarded to me the email that Dr. Nikolova sent 14 to Sanjay, and that's all that I've seen. 15 Q. Okay. You didn't -- nobody forwarded 16 you the other emails from faculty members or the 17 email from Dr. Nikolova where she compiled the -- 18 the comments that were -- she was authorized to 19 publicly disclose and those that were not? 20 A. I do not remember seeing that. 21 Q. Okay. I -- I saw where there was a 22 number of emails that were forwarded to you by 23 ECE faculty that came from Dr. Nikolova or others 24 that you weren't copied on. 25 A. Okay.</p>

<p style="text-align: right;">258</p> <p>1 Q. Do you know what I'm talking about?</p> <p>2 A. I'm sorry. I honestly don't</p> <p>3 remember.</p> <p>4 Q. Were there any members of the P&amp;T</p> <p>5 Committee that were communicating to you their</p> <p>6 displeasure with your recommendation?</p> <p>7 A. Not to my knowledge.</p> <p>8 Q. So other than -- and the person</p> <p>9 you're referring to is Sanjay, is that right,</p> <p>10 that was her mentor?</p> <p>11 A. Sanjay Shakkottai, yes.</p> <p>12 Q. Okay. Thank you. It's not in front</p> <p>13 of me, so I didn't have it memorized.</p> <p>14 "Shakkottai"?</p> <p>15 A. Yes.</p> <p>16 Q. So Professor Shakkottai.</p> <p>17 Anyone else besides him that was</p> <p>18 vocally in support of Dr. Nikolova either during</p> <p>19 the process or since?</p> <p>20 MR. DOWER: Objection;</p> <p>21 form.</p> <p>22 A. I -- I don't remember anything, but I</p> <p>23 think -- I have also not reviewed my emails</p> <p>24 specifically to answer that, and it was not</p> <p>25 amongst the emails that I reviewed in preparation</p>	<p style="text-align: right;">260</p> <p>1 A. So I mean, Ahmed Tewfik reached out</p> <p>2 to me because he wanted me to be aware that Dr.</p> <p>3 Nikolova had been -- had shared emails within the</p> <p>4 Department and -- and distributed the</p> <p>5 information.</p> <p>6 I honestly do not remember if I</p> <p>7 received any follow-up emails from that.</p> <p>8 Q. Okay. So looking at Exhibit 2, your</p> <p>9 evaluation dated 20th of November 2018, does this</p> <p>10 include all the reasons for your recommendation</p> <p>11 to deny tenure to Dr. Nikolova?</p> <p>12 A. To not promote her early, yes.</p> <p>13 Q. Okay. And so I should expect to hear</p> <p>14 nothing else as another reason that you would</p> <p>15 have recommended not promoting her to tenure at</p> <p>16 that time later in this case?</p> <p>17 A. I don't believe so. I believe that</p> <p>18 I've addressed my -- I addressed my concerns in</p> <p>19 my written letter.</p> <p>20 Q. Okay. And -- and -- and that's</p> <p>21 because you're required to put your reasoning in</p> <p>22 writing; is that right?</p> <p>23 A. That is correct; right.</p> <p>24 Q. Okay. And you'd said that this was</p> <p>25 the first time that -- or the first year where</p>
<p style="text-align: right;">259</p> <p>1 for this deposition.</p> <p>2 BY MR. NOTZON:</p> <p>3 Q. Has anybody reached out to you in</p> <p>4 support of not giving Dr. Nikolova tenure?</p> <p>5 A. Not to my knowledge.</p> <p>6 Q. Other than, of course, President</p> <p>7 Fennes.</p> <p>8 A. Well, --</p> <p>9 Q. We're not talking about --</p> <p>10 A. -- they made the decision.</p> <p>11 Q. Yeah, I'm talking about anybody at or</p> <p>12 below your level of responsibility.</p> <p>13 A. I don't -- I don't remember any</p> <p>14 case -- well, I don't remember any case where a</p> <p>15 faculty member within the Cockrell School of</p> <p>16 Engineering has contacted me after I've made a</p> <p>17 recommendation on -- on a promotion of tenure</p> <p>18 case.</p> <p>19 Q. Okay. So my question would include,</p> <p>20 is there anybody that has communicated with you a</p> <p>21 reaction to your recommendation against tenure</p> <p>22 for Dr. Nikolova, whether it be a comment in</p> <p>23 passing, a written comment, or any communication</p> <p>24 to you that they have an opinion on what you</p> <p>25 wrote or recommended?</p>	<p style="text-align: right;">261</p> <p>1 you directed the P&amp;T Committee not to give you a</p> <p>2 draft of the recommendation letter.</p> <p>3 And is -- would it be accurate</p> <p>4 that -- well, let me ask it: When in past years</p> <p>5 the P&amp;T Committee would write a -- a first draft</p> <p>6 of the recommendation letter, would they know</p> <p>7 what your position is when they wrote it?</p> <p>8 A. No.</p> <p>9 Q. Okay. So their letter would be based</p> <p>10 upon their position and their vote?</p> <p>11 A. Correct. Their draft, yes.</p> <p>12 Q. Supporting their position and their</p> <p>13 vote --</p> <p>14 A. Correct.</p> <p>15 Q. -- on what the recommendation ought</p> <p>16 to be?</p> <p>17 A. (Nodding head affirmatively.)</p> <p>18 Q. "Yes"? Okay.</p> <p>19 So you said the reason that you told</p> <p>20 them this particular year the first time to not</p> <p>21 do that was to save time.</p> <p>22 Would it also be accurate that it</p> <p>23 would be easier for you to not have to have a</p> <p>24 record of what their position was in support of</p> <p>25 the tenure when you're about to deny or recommend</p>

<p style="text-align: right;">262</p> <p>1 not promoting?</p> <p>2 MR. DOWER: Objection;</p> <p>3 form.</p> <p>4 A. No, I don't believe that was a factor</p> <p>5 at all. I made the decision to change the</p> <p>6 process sometime during the summer.</p> <p>7 I had not looked at any of the cases</p> <p>8 other than a cursory review at that time, so it</p> <p>9 really was an attempt to -- I find it --</p> <p>10 especially since the Provost had asked me to</p> <p>11 shorten my letters, I would -- I had I think</p> <p>12 found it to be more efficient for me and in my</p> <p>13 thought process to -- to take their input and</p> <p>14 incorporate it into my letters.</p> <p>15 BY MR. NOTZON:</p> <p>16 Q. And what was the Provost's</p> <p>17 instruction on shortening your letter?</p> <p>18 A. Well, one -- one thing specifically</p> <p>19 was "Don't include quotations from the external</p> <p>20 letter writers."</p> <p>21 That had been something we had done</p> <p>22 specifically in the past, and it took quite a bit</p> <p>23 of time to document and put all that in place.</p> <p>24 And the feedback from the President's Committee</p> <p>25 is, "We read those letters anyway. We don't need</p>	<p style="text-align: right;">264</p> <p>1 BY MR. NOTZON:</p> <p>2 Q. So do you ever make an attempt to not</p> <p>3 put something in writing?</p> <p>4 MR. DOWER: Objection;</p> <p>5 form.</p> <p>6 A. I did that specifically in one case</p> <p>7 this year.</p> <p>8 BY MR. NOTZON:</p> <p>9 Q. And whose was that?</p> <p>10 A. This was an Assistant Professor in</p> <p>11 Biomedical Engineering where the Department</p> <p>12 recommended a terminal appointment, and I agreed</p> <p>13 with the Department on a terminal appointment.</p> <p>14 There were concerns about the</p> <p>15 candidate's mentorship of graduate students, and</p> <p>16 so I did not want -- because this is information</p> <p>17 that's available for the public record, the</p> <p>18 Department Chair didn't mention that and I -- I</p> <p>19 addressed -- I did not put that in my specific</p> <p>20 letter to protect the graduate student.</p> <p>21 Q. A FERPA thing, --</p> <p>22 A. Well, --</p> <p>23 Q. -- or just a -- a professional</p> <p>24 courtesy?</p> <p>25 A. I think a professional courtesy.</p>
<p style="text-align: right;">263</p> <p>1 to read it in -- in your letter."</p> <p>2 Q. Uh-huh.</p> <p>3 Was there a specific reduction in</p> <p>4 page numbers?</p> <p>5 A. No.</p> <p>6 Q. What kind of lengths were you writing</p> <p>7 beforehand?</p> <p>8 A. I think probably three to five pages</p> <p>9 was normal.</p> <p>10 Q. And so Dr. Nikolova's is four pages,</p> <p>11 right?</p> <p>12 A. That's right.</p> <p>13 Q. So is -- I don't see the shortening.</p> <p>14 Do you?</p> <p>15 A. Yes. Because if I disagree or if I</p> <p>16 want to elaborate on a point I'll need to spend</p> <p>17 more time addressing it in my letter.</p> <p>18 Normally the -- the strongest cases</p> <p>19 have the shortest letters.</p> <p>20 Q. They're all adjectives?</p> <p>21 MR. DOWER: Objection;</p> <p>22 form.</p> <p>23 A. I'm sorry. I -- I can't answer that</p> <p>24 question. I haven't done an analysis of my</p> <p>25 letters.</p>	<p style="text-align: right;">265</p> <p>1 Q. Or was it a protection for UT's</p> <p>2 exposure?</p> <p>3 A. That never occurred to me.</p> <p>4 Q. Okay. Any other instances where you</p> <p>5 attempted to keep things verbal instead of in</p> <p>6 writing?</p> <p>7 A. I'm not recalling any -- any other.</p> <p>8 Q. Okay. In the hypothetical having</p> <p>9 been Dean for five years, six years -- let me --</p> <p>10 did we say six?</p> <p>11 A. I'm in my seventh year right now.</p> <p>12 Q. Seventh year.</p> <p>13 In the hypothetical, is there a</p> <p>14 situation where you would recommend not putting</p> <p>15 something in writing to yourself?</p> <p>16 MR. DOWER: Objection;</p> <p>17 form.</p> <p>18 A. You mean putting in writing to</p> <p>19 myself, so I'm writing a letter to myself?</p> <p>20 BY MR. NOTZON:</p> <p>21 Q. No, you're making a -- you know,</p> <p>22 you're kind of talking to yourself, "I'd better</p> <p>23 not put that in writing"?</p> <p>24 A. So you're talking about if I have a</p> <p>25 promotion review?</p>

<p style="text-align: right;">266</p> <p>1 Q. Sure.</p> <p>2 A. The only thing that has occurred to</p> <p>3 me in my time was the case of the -- the graduate</p> <p>4 students that felt that -- I -- I found out the</p> <p>5 reasons or I spoke to the graduate advisor in</p> <p>6 that Department to understand the reasons why the</p> <p>7 graduate students left and what the concerns were</p> <p>8 related to mentoring because there were a large</p> <p>9 number of people who left this individual's lab,</p> <p>10 and so I did not --</p> <p>11 Q. A person from this year?</p> <p>12 A. Yes.</p> <p>13 Q. Okay.</p> <p>14 A. So that's the only time when I</p> <p>15 thought, "I don't want to put this in writing, I</p> <p>16 can justify my decision based on other things,</p> <p>17 but I will tell the President's Committee this."</p> <p>18 But that's the only time that I can</p> <p>19 remember having that thought.</p> <p>20 Q. So the -- your answer is the only</p> <p>21 basis for not putting something in writing that</p> <p>22 you've either used or can think of that would be</p> <p>23 appropriate would be the protection of a</p> <p>24 student's privacy?</p> <p>25 A. And protecting them from any type of</p>	<p style="text-align: right;">268</p> <p>1 sounded like you were talking about in the</p> <p>2 general, this is how the process would work and</p> <p>3 not necessarily in Dr. Nikolova's case; is that</p> <p>4 right?</p> <p>5 A. It's both.</p> <p>6 Q. Okay. And is this -- that's the way</p> <p>7 it has happened since you became Dean?</p> <p>8 A. So up until the year Dr. Nikolova was</p> <p>9 considered, I would go in and I would discuss</p> <p>10 with the President's Committee every person who</p> <p>11 was being considered.</p> <p>12 The following year they decided to</p> <p>13 change the policy, so they would tell me which</p> <p>14 one of the candidates they wanted me to discuss.</p> <p>15 Q. Okay. And that was this year?</p> <p>16 A. That was this year and also last</p> <p>17 year. So -- so the -- the Fall -- the cycle that</p> <p>18 started in 2019 and also the cycle that started</p> <p>19 in 2020.</p> <p>20 Q. Gotcha. So you've done that two</p> <p>21 times now?</p> <p>22 A. That's correct.</p> <p>23 Q. The -- the -- the two times since Dr.</p> <p>24 Nikolova's time?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">267</p> <p>1 potential retaliation.</p> <p>2 Q. Okay. As best you can?</p> <p>3 A. Right. As best as I can remember.</p> <p>4 Q. Oh, no, I mean as best as you can</p> <p>5 protect them.</p> <p>6 A. That's right, because actually --</p> <p>7 that's it; right.</p> <p>8 Q. You only have so much ability. All</p> <p>9 right.</p> <p>10 Okay. On the President's Committee,</p> <p>11 did you interact with the President's Committee</p> <p>12 personally?</p> <p>13 A. Yes. So the President's Committee</p> <p>14 changed their policy this year, also. No, I'm</p> <p>15 sorry. They didn't. I'm sorry. This was the</p> <p>16 old policy.</p> <p>17 So what would happen is I would go in</p> <p>18 and I would discuss each case with the</p> <p>19 President's Committee. Then they would ask me</p> <p>20 questions and I would try to -- you know, I'd try</p> <p>21 to answer those questions to the best of my</p> <p>22 ability, and then they would -- they would vote.</p> <p>23 And that's an advisory vote to the</p> <p>24 President that took place there.</p> <p>25 Q. Let me clarify. So you -- you -- you</p>	<p style="text-align: right;">269</p> <p>1 Q. Okay. So in Dr. Nikolova's time</p> <p>2 you -- you went to President's Committee when</p> <p>3 they told you it was time to come, and you talked</p> <p>4 with the Committee and the President and you</p> <p>5 about every candidate from the Engineering</p> <p>6 School?</p> <p>7 A. Yes. And there was some other --</p> <p>8 there were some staff members in the room, too.</p> <p>9 Q. Okay. And did you make a</p> <p>10 presentation, or was it a question-and-answer</p> <p>11 form?</p> <p>12 A. No, it was more of a question-and-</p> <p>13 answer.</p> <p>14 Q. Okay. You're there to answer any and</p> <p>15 all questions they might have as best you can?</p> <p>16 A. Correct.</p> <p>17 Q. Okay. And -- but now they identify</p> <p>18 cases that they want to talk about ahead of time?</p> <p>19 A. No.</p> <p>20 Q. So you have to prepare for everybody?</p> <p>21 A. Essentially I have to pre -- I find</p> <p>22 out maybe three days in advance the people they</p> <p>23 want to discuss, so, you know, I --</p> <p>24 Q. Okay. And so their job is not to</p> <p>25 make your job easier, that's right?</p>

<p style="text-align: right;">270</p> <p>1 A. That is correct.</p> <p>2 Q. All right. No surprise.</p> <p>3 So -- so you go and you would answer</p> <p>4 the questions.</p> <p>5 So presumably -- well, is it true</p> <p>6 that the ones that they don't talk to you about</p> <p>7 could be either they've already decided to --</p> <p>8 what they're going to do positive or negative and</p> <p>9 the ones they want to talk to you about are only</p> <p>10 the ones that are close calls?</p> <p>11 A. No. They only -- the ones they do</p> <p>12 not discuss with me are the ones that are the</p> <p>13 very strong positive cases.</p> <p>14 They discuss all the cases that</p> <p>15 are -- I'd say -- you used the term "close</p> <p>16 calls," so all the cases that are -- where</p> <p>17 they -- yeah, they discuss the ones that are</p> <p>18 closer to the bar and also anyone where there's a</p> <p>19 recommendation against promotion.</p> <p>20 Q. Okay. Maybe this hasn't happened</p> <p>21 since it's only been two times now, and I -- I</p> <p>22 don't know if it has. Yeah, maybe it has.</p> <p>23 Do they talk to you even if they're</p> <p>24 going to vote to promote if you -- if they're</p> <p>25 disagreeing with you, you -- you were</p>	<p style="text-align: right;">272</p> <p>1 questions and provide clarification. And yes, I</p> <p>2 met again after she submitted her final</p> <p>3 arguments.</p> <p>4 The primary concern in her case was</p> <p>5 the sustainability of research funding, and in</p> <p>6 the period between when my letter had been</p> <p>7 submitted and the final arguments were submitted,</p> <p>8 she had received another research grant.</p> <p>9 So that was considered to be</p> <p>10 sufficient evidence of sustainable research</p> <p>11 program, and they decided to change their vote.</p> <p>12 Q. Because you had no other basis to</p> <p>13 recommend denial?</p> <p>14 A. The -- the primary concern in her</p> <p>15 case -- and I -- I did not review all the details</p> <p>16 of the case -- was the sustainability of her</p> <p>17 research funding.</p> <p>18 Q. Okay. When the President's Committee</p> <p>19 decides, you are not present; is that right?</p> <p>20 A. For the past two years that is the</p> <p>21 case, right; that is correct.</p> <p>22 Q. But --</p> <p>23 A. Before that -- well, the -- the</p> <p>24 Committee doesn't decide. The Committee vote is</p> <p>25 a recommendation to the President, so -- but in</p>
<p style="text-align: right;">271</p> <p>1 recommending non-promotion?</p> <p>2 A. Are you referring to the case in</p> <p>3 Biomedical Engineering from last year?</p> <p>4 Q. What was the name again?</p> <p>5 A. Janet Zoldan -- "Zoldan."</p> <p>6 Q. Yeah, uh-huh, that's right.</p> <p>7 A. So the Committee made an initial</p> <p>8 recommendation to -- the -- the term they use is</p> <p>9 "terminal appointment pending."</p> <p>10 Q. (Nodding head affirmatively.)</p> <p>11 A. Janet submitted final arguments, the</p> <p>12 Committee reviewed the final arguments, they met</p> <p>13 with me again, and they changed their mind based</p> <p>14 on her final arguments.</p> <p>15 Q. Okay. So there was an initial -- you</p> <p>16 went in, talked to them about her case, and y'all</p> <p>17 agreed to terminal, and then she wrote the final</p> <p>18 arguments, you went back in to have a</p> <p>19 conversation, and based upon that and whatever</p> <p>20 her arguments were, they reversed?</p> <p>21 A. So I am not part of the decision-</p> <p>22 making process. I want to make sure that's</p> <p>23 clear.</p> <p>24 Q. Thank you.</p> <p>25 A. I -- I do not vote; I only answer</p>	<p style="text-align: right;">273</p> <p>1 the past, from 2018/'19 academic year and</p> <p>2 earlier, the Committee would vote while the Dean</p> <p>3 was in the room.</p> <p>4 Q. Okay. So you were there for the vote</p> <p>5 for Dr. Nikolova?</p> <p>6 A. I was, yes.</p> <p>7 Q. And what was their vote at that time?</p> <p>8 A. There were zero in favor of promotion</p> <p>9 and five against promotion.</p> <p>10 Q. Okay.</p> <p>11 A. And as I mentioned, that vote is</p> <p>12 advisory to the President, so that is not</p> <p>13 reported anywhere.</p> <p>14 Q. Right.</p> <p>15 A. I was present so I can report to my</p> <p>16 direct knowledge of that vote.</p> <p>17 Q. And the President's decision -- the</p> <p>18 President's Committee consideration and decision</p> <p>19 and the President's decision are all not</p> <p>20 documented, correct?</p> <p>21 A. That is correct.</p> <p>22 Q. Okay. When do you recall was the</p> <p>23 first time that Dr. Nikolova, specifically her,</p> <p>24 had raised issues of gender or pregnancy bias</p> <p>25 associated with her application for tenure?</p>

<p style="text-align: right;">274</p> <p>1 A. So I -- I don't remember if it was in  2 her -- the supplemental information she submitted  3 to the President or a part of the -- the final  4 arguments for CCAFR review.  5 So I don't remember if it came before  6 or after the President's -- my first meeting with  7 the President's Committee, but I believe it  8 happened sometime in that period.  9 Q. Sometime after your decision, but  10 before the CCAFR decision?  11 A. Well, that would bracket -- that  12 would certainly bracket it, yes.  13 Q. Can you bracket it short? Thinner?  14 A. No, I'm sorry, I -- I just don't --  15 you know, she wrote a number of different  16 documents, and I don't have it committed to  17 memory as to when that actually came up, but I  18 believe it came up -- and my document was dated  19 the 20th of November.  20 I believe the final decision by the  21 President was sometime I think in April. So I  22 think it's in that timeframe, but I -- I don't  23 remember the details. I'm sorry.  24 Q. Okay. Could it be between your  25 November 20th evaluation and the President's</p>	<p style="text-align: right;">276</p> <p>1 pregnancy bias concerns elsewhere than those  2 three documents?  3 MR. DOWER: Objection;  4 form.  5 A. Well, she filed the lawsuit, so there  6 was certainly that.  7 BY MR. NOTZON:  8 Q. During that period of time. Sorry.  9 A. Right; yeah.  10 Q. Good -- good catch.  11 A. You know, we talked about how she  12 engaged the faculty.  13 Q. Yeah.  14 A. So there was definitely an email that  15 came out -- a flurry of emails then.  16 Again, that's amongst the many  17 documents that were in that same general period,  18 and I just don't remember which one -- which one  19 was the first one it was raised in.  20 Q. Okay. And I'm just raising that  21 to -- just to jog your memory that there were  22 these emails that she may have raised that that  23 may have also been the source.  24 I just didn't know if you felt that  25 was the case or not.</p>
<p style="text-align: right;">275</p> <p>1 initial agreement with you?  2 A. Yes. I believe that that  3 statement -- that question is consistent with  4 what I just said, that it was after --  5 Q. Well, you -- but I think --  6 A. April is when the CCAFR Committee --  7 when the President would have made the decision  8 on CCAFR, and so --  9 Q. No, I'm talking about the President's  10 first decision to not promote that happened in  11 like February.  12 A. Right. And that's what I'm saying.  13 I don't remember when she brought the topic up,  14 whether it was in her response to my letter,  15 which was in a supplemental document in the  16 dossier, or in her final arguments, or in her  17 CCAFR.  18 So there are three documents, and I  19 don't know which one it -- it would have been in  20 the first time.  21 Q. Okay. And you think that she  22 definitely raised concerns of gender/pregnancy  23 bias in one or all of those documents?  24 A. I believe that to be true.  25 Q. Do you know if she raised gender or</p>	<p style="text-align: right;">277</p> <p>1 A. So I know there were a series of  2 corres -- or written correspondence during that  3 period, but I can't pinpoint the exact time --  4 Q. And you're sure --  5 A. -- or the exact point.  6 Q. I'm sorry. And you're sure you never  7 heard it from her directly verbally?  8 A. Well, Dr. Nikolova -- I believe since  9 my letter of -- of November of 2018, I believe  10 I've only been in one meeting where Dr. Nikolova  11 was present.  12 That was a Zoom meeting with  13 Assistant Professors and Dr. Marculescu, so I was  14 meeting with the Assistant Professors and the  15 Department Chair in Electrical and Computer  16 Engineering, and that was in the Spring of 2020  17 after COVID hit.  18 Q. Okay. So that would be "yes"?  19 A. That'd be "yes."  20 Q. Okay. Next question along the same  21 lines.  22 Did anyone else raise concerns with  23 you of gender or pregnancy bias about the way  24 Dr. Nikolova's tenure promotion case was handled,  25 verbally or in writing that you're aware of?</p>



<p style="text-align: right;">278</p> <p>1 A. So Ahmed Tewfik may have -- we may 2 have discussed that this was a concern that had 3 been raised. 4 He was -- if -- if it was -- to my 5 recollection, he was alerting me to the issue. I 6 did not -- in my recollection, I don't believe 7 that he said "I agree with that assessment." 8 And I -- I think I've already said 9 that I -- I did not get any direct emails or have 10 correspondence with anyone after the decision. 11 Q. Okay. Was -- from your recollection 12 of Chair Tewfik's communication with you that 13 you've just described, was he conveying to you 14 that Dr. Nikolova had been complaining about 15 gender or pregnancy bias, or that he was 16 concerned about there being the presence of 17 gender or pregnancy bias in what had been 18 happening with Dr. Nikolova's case? 19 A. He was conveying that she had 20 expressed concerns about gender and/or pregnancy 21 bias. 22 Q. Okay. Do you recall anyone 23 expressing agreement or concern -- agreement with 24 Dr. Nikolova or concern that on their own 25 perception that gender or pregnancy bias may be</p>	<p style="text-align: right;">280</p> <p>1 leadership opportunities here at UT Austin. 2 But I -- I had the opportunity to be 3 many some leadership roles early in my career. 4 Q. And the leadership roles you were in 5 early in your career, they were general 6 population groups, in other words, male and 7 female? 8 A. Yes. In some cases I may have been 9 the only woman in the room, but there was no -- 10 there was no limit on who was in the room. 11 Q. Okay. It wasn't a female-only kind 12 of association? 13 A. Correct. 14 Q. Okay. And when you say "hard work," 15 you're talking about not only what you do and how 16 you produce, but time in and -- and just being 17 present, would that be accurate? 18 A. Yes, I believe that's accurate. 19 Q. Would you -- would you say that 20 having a personal life would detract from your 21 ability to be successful? 22 A. When I talk to junior faculty I made 23 a point of saying they need balance in their 24 lives, and that their personal lives are really 25 important.</p>
<p style="text-align: right;">279</p> <p>1 afoot in the way Dr. Nikolova was treated? 2 A. I do not remember that, no. 3 Q. Okay. I -- I want to show you -- 4 well, let me -- let me ask you the question. 5 We had talked about your 6 experience -- your first-time experience with 7 being treated as less than being a woman in 8 Engineering, and -- from before, but -- but you 9 said you also felt like you had positive 10 experiences and benefits being a woman in 11 Engineering given the timing at which you have 12 come up through the ranks. 13 What would you say is kind of your 14 secret to -- not secret, but your strategy for 15 succeeding as you have in the field of 16 engineering being a woman? 17 A. I think hard work is really 18 important. I think I often -- I often advise 19 listening to other people and trying to 20 understand other per -- perspectives is 21 important. 22 And then for me I think what was 23 really important was my strong affiliation with a 24 technical society and having leadership 25 opportunities there, and then moving into</p>	<p style="text-align: right;">281</p> <p>1 I made a point of talking with them 2 about this new COVID extension, right? Many of 3 our junior faculty members are trying to home 4 school their children. 5 And I said, "You may not be as 6 productive as you were before, so this is an 7 opportunity for you to designate this and extend 8 your probationary period if it's appropriate for 9 you." 10 So I made a point of saying that 11 family is extremely important and they needed 12 to -- they -- they need to bal -- they need to 13 decide the balance. 14 Q. Okay. And -- and so you recommend 15 that -- that it's okay to put emphasis on the 16 balancing of their professional life with their 17 personal life? 18 A. I believe that to be true. 19 Q. And -- and would it be true that you 20 honor that decision to have balance? 21 A. Yes, yes, I believe that to be true. 22 Q. Would it be the case that the other 23 administrators at the University of Texas honor 24 that decision, as well? 25 MR. DOWER: Objection;</p>

<p style="text-align: right;">282</p> <p>1 form.</p> <p>2 A. So I can't speak for every</p> <p>3 administrator at UT Austin, however, I can say</p> <p>4 that the Provost's Office has been very</p> <p>5 aggressive, especially this year with all the</p> <p>6 disruption due to COVID, to make sure that --</p> <p>7 that nontenured -- or that tenured faculty and</p> <p>8 also Assistant Professors have -- have the</p> <p>9 opportunity to designate the -- their -- how</p> <p>10 disruptive COVID was in their professional lives.</p> <p>11 There are things now that called</p> <p>12 COVID statements where you don't disclose why</p> <p>13 there was disruption but you talk about how that</p> <p>14 impacted your professional career.</p> <p>15 And so I believe that this is</p> <p>16 something that is -- is very important to the</p> <p>17 Provost's Office, as evidenced by the policies</p> <p>18 they've implemented.</p> <p>19 BY MR. NOTZON:</p> <p>20 Q. Have you during your career always</p> <p>21 been supportive of your colleagues spending</p> <p>22 personal time on themselves?</p> <p>23 A. I -- I believe there's balance. So</p> <p>24 if someone is -- you know, if someone is not</p> <p>25 fulfilling their job responsibilities, they're</p>	<p style="text-align: right;">284</p> <p>1 A. He's been a Dean longer than I have,</p> <p>2 yes.</p> <p>3 Q. Okay. And have you interacted with</p> <p>4 him about doing things Dean-like and advising him</p> <p>5 on how you do things?</p> <p>6 A. We've -- we have shared ideas. I</p> <p>7 mean, we are friends. We -- we cycle together</p> <p>8 once a week or so, and we also -- I'd say he's my</p> <p>9 closest friend amongst the Deans.</p> <p>10 Q. Okay.</p> <p>11 A. And so I know that -- I think we -- I</p> <p>12 was trying to understand more about Fine Arts, he</p> <p>13 was trying to understand more about Engineering,</p> <p>14 and so I know I did share Dr. Nikolova's case</p> <p>15 with him, and he shared the -- a case that he</p> <p>16 found particularly challenging with me.</p> <p>17 Q. Okay. And -- and so the -- the</p> <p>18 reason you were interacting with each other was</p> <p>19 just sharing your -- your challenging issue and</p> <p>20 how you dealt with it?</p> <p>21 A. I think -- I think that was the</p> <p>22 understanding, yes.</p> <p>23 Q. Okay. Let me go ahead and put --</p> <p>24 this will be Exhibit No. 4, and it should be</p> <p>25 arriving in your chat.</p>
<p style="text-align: right;">283</p> <p>1 not coming to class because they've taken a</p> <p>2 vacation, that's a lot different than someone who</p> <p>3 is -- you know, so I think -- I think I need more</p> <p>4 context to be able to answer that completely.</p> <p>5 Q. Okay. It's all in the details,</p> <p>6 right, so...</p> <p>7 When you say "balance," you're</p> <p>8 talking about making sure your job gets done, but</p> <p>9 also making sure that you have a functioning,</p> <p>10 viable personal life?</p> <p>11 A. Right. Well, I do not believe</p> <p>12 someone needs to sacrifice their personal life</p> <p>13 for their professional career.</p> <p>14 Q. Okay. And -- and that's -- that's a</p> <p>15 long-held belief you've had?</p> <p>16 A. Yes, it is.</p> <p>17 (Exhibit 4 marked for identification.)</p> <p>18 BY MR. NOTZON:</p> <p>19 Q. Okay. Let me show you an -- an</p> <p>20 email.</p> <p>21 Do you recall who Doug Dempster is?</p> <p>22 A. Yes. Doug is a -- the Dean in the</p> <p>23 College of Fine Arts.</p> <p>24 Q. Okay. And so he's been a Dean while</p> <p>25 you've been a Dean?</p>	<p style="text-align: right;">285</p> <p>1 A. You're right. I said that.</p> <p>2 Q. Okay. So when you -- when you sent</p> <p>3 ECE_Nikolova vol -- V -- "V2," is that Volume 2</p> <p>4 or Version 2?</p> <p>5 A. It would be Version 2.</p> <p>6 Q. And is that your Exhibit 2 that we've</p> <p>7 been going over?</p> <p>8 A. I believe so.</p> <p>9 What happens is I developed my final</p> <p>10 draft, Sonya Shaffer -- Sonya Shaffer does an</p> <p>11 editorial review of it, and then I modify it to</p> <p>12 put "Version 2" or perhaps there's another</p> <p>13 editorial made for Version 3.</p> <p>14 Q. Okay. So I'm just clarifying that</p> <p>15 it's your evaluation that you believe you</p> <p>16 attached to this email --</p> <p>17 A. Yes.</p> <p>18 Q. -- for him to review?</p> <p>19 A. Right.</p> <p>20 Q. Okay. And -- and this is from</p> <p>21 January, so this is two months later, right, --</p> <p>22 A. Right.</p> <p>23 Q. -- from when you wrote it.</p> <p>24 And then it says, "Intentionally, I</p> <p>25 did not state all my reasons in the letter," and</p>

<p style="text-align: right;">286</p> <p>1 "I felt that some things were best discussed with 2 the Committee." 3 When you say "the Committee," which 4 Committee are you talking about? 5 A. That would be the President's 6 Committee. 7 Q. Okay. And which issues did you not 8 talk about in writing that you talked about 9 verbally? 10 A. That's a very good question because I 11 don't remember. 12 Q. Okay. Did Dean Dempster ask you that 13 question? 14 A. I don't believe so. He sent me a 15 case about a saxophone player that he was -- he 16 was struggling with. 17 Q. And did he agree that putting things 18 in writing would not be always advisable? 19 A. I honestly don't remember a follow-up 20 of the case. 21 Q. Okay. 22 A. I remember talking with him about -- 23 so I remember talking with him about his case. I 24 don't remember if he had any comments about this 25 case at all.</p>	<p style="text-align: right;">288</p> <p>1 Illinois. 2 The first woman was Kathy French 3 who's still a very close friend of mine, which I 4 also told you. She had three children -- she has 5 three children. I believe two were while she was 6 an Assistant Professor. And I told many people 7 Kathy's story of how she was grading final exams 8 while she was still in the hospital, and I found 9 that to be atrocious. 10 Q. Yeah. 11 A. And so I have been a very strong 12 supporter of having a family. I also remember 13 having conversations with her of "You can't do 14 everything. You have -- you -- you know, you 15 have family responsibilities. You cannot also be 16 doing everything on a professional side." 17 So I -- this is something that has 18 been important to me throughout my career, and 19 while I do not have children, my best friend 20 does, and I've seen what she's gone through. 21 Q. Do you understand the commitment of 22 time, energy, emotion, health involved in having 23 and raising children? 24 MR. DOWER: Objection; 25 form.</p>
<p style="text-align: right;">287</p> <p>1 So you're right, I did say that. I 2 had forgotten completely. I would have to check 3 my notes to see if there are things that I -- 4 that I just don't remember right now. 5 Q. Okay. 6 A. But I -- I know that pregnancy would 7 not be one of the issues that would -- would have 8 been a concern for me. 9 Q. Because that would be illegal? 10 A. Well, that would be illegal, but it 11 also is not consistent with my core belief. 12 I believe faculty members need to -- 13 should have families. 14 Q. Okay. Is it -- is it okay to have 15 two pregnancies during your tenured-track time, 16 or is that a -- a deal-breaker? Is that 17 exceeding the -- the balance? 18 A. The University allows a maximum of 19 two extensions for probationary period. 20 Q. So you reckon if you can pop out 21 three kids and -- and still keep working, that's 22 fine? 23 A. So my -- I told you very early on 24 that I was the second woman to get a Ph.D. in 25 Structural Engineering from the University of</p>	<p style="text-align: right;">289</p> <p>1 A. Well, I can tell you I have many 2 friends who have children and so I've had 3 discussions with them. 4 I have no direct knowledge because, 5 as I told you, I've never been married and I do 6 not have any children. 7 BY MR. NOTZON: 8 Q. So you don't purport to know but you 9 empathize? 10 A. I definitely empathize. 11 (Exhibit 5 marked for identification.) 12 BY MR. NOTZON: 13 Q. Okay. Let me put something else in 14 the chat. And so it's a link to an interview you 15 did for an award you got last year. 16 A. Okay. 17 THE COURT REPORTER: 18 Exhibit 5; is that correct? 19 MR. NOTZON: That's 20 Exhibit 5, yes. 21 A. Okay. 22 BY MR. NOTZON: 23 Q. So I'm not -- I've never played a 24 video as part of the deposition, so, you know, 25 you don't have to -- you're welcome -- I'm</p>

<p style="text-align: right;">290</p> <p>1 assuming you -- you remember this interview?</p> <p>2 A. I remember the interview. I don't</p> <p>3 honestly remember any of the questions she asked.</p> <p>4 Q. Did you ever see the video?</p> <p>5 A. No, I didn't.</p> <p>6 Q. Okay. Well, in -- in that cases</p> <p>7 you're welcome to watch the entire thing.</p> <p>8 MR. NOTZON: Tommi,</p> <p>9 you're -- you'll -- you'll have</p> <p>10 it as Exhibit 5, so you can, you</p> <p>11 know, type it out at -- at your</p> <p>12 leisure.</p> <p>13 THE COURT REPORTER:</p> <p>14 Generally what we do is I just put a</p> <p>15 parenthetical saying "Digital media</p> <p>16 played," and I --</p> <p>17 MR. NOTZON: And I -- no</p> <p>18 problem.</p> <p>19 THE COURT REPORTER: --</p> <p>20 don't necessarily transcribe it.</p> <p>21 MR. NOTZON: Okay.</p> <p>22 MR. DOWER: Robert,</p> <p>23 could we -- we take a quick break</p> <p>24 for Sharon to watch the video and</p> <p>25 see if you have follow-up questions.</p>	<p style="text-align: right;">292</p> <p>1 you would adopt in -- as part of your testimony</p> <p>2 today?</p> <p>3 A. Yes, even though it seems to</p> <p>4 contradict some of the things I said earlier,</p> <p>5 yes. And -- yeah.</p> <p>6 Q. Do you disagree that it contradicts</p> <p>7 what you said today?</p> <p>8 A. Well, I -- I was thinking of the</p> <p>9 small group in -- that small group in Europe when</p> <p>10 I made the comment about "Sometimes people will</p> <p>11 ask you why you're there." I think --</p> <p>12 Q. I think that's consistent.</p> <p>13 A. Okay. I think the work life balance,</p> <p>14 I did say, "Yeah, sometimes it's a myth" because</p> <p>15 I think the myth -- the myth that I often think</p> <p>16 about is the supermom who can do everything, and</p> <p>17 I believe that might have been the conversation</p> <p>18 we had even before that I referenced.</p> <p>19 I -- I also believe, as I just said,</p> <p>20 one cannot do everything, and so you have to set</p> <p>21 priorities, and I also said that family is</p> <p>22 important, yeah.</p> <p>23 (Exhibit 6 marked for identification.)</p> <p>24 BY MR. NOTZON:</p> <p>25 Q. Oh, when -- let me -- let me go ahead</p>
<p style="text-align: right;">291</p> <p>1 MR. NOTZON: That's fine.</p> <p>2 And everybody can watch it, yeah.</p> <p>3 MR. SCHMIDT: That's</p> <p>4 perfect; yeah.</p> <p>5 MR. DOWER: Why -- why</p> <p>6 don't we just take like whatever</p> <p>7 it is, five minutes, ten minutes,</p> <p>8 whatever.</p> <p>9 MR. NOTZON: Ms. Wood,</p> <p>10 just come back when you're ready.</p> <p>11 THE WITNESS: Okay.</p> <p>12 Thank you very much.</p> <p>13 THE COURT REPORTER: We're</p> <p>14 going off the record at 5:01 p.m.</p> <p>15 (Recess held from 5:01 p.m. to 5:09 p.m.)</p> <p>16 THE COURT REPORTER: We</p> <p>17 are going back on the record at</p> <p>18 5:09 p.m.</p> <p>19 BY MR. NOTZON:</p> <p>20 Q. Dean, were you able to view that</p> <p>21 video?</p> <p>22 A. I did, yes.</p> <p>23 Q. Okay. And that is you?</p> <p>24 A. That is me, yes.</p> <p>25 Q. And the answers to those questions,</p>	<p style="text-align: right;">293</p> <p>1 and put this document up in the -- the chat for</p> <p>2 Exhibit 6.</p> <p>3 A. Okay. I have it. I'm sorry.</p> <p>4 Q. Okay. And this is Chair Tew --</p> <p>5 Tewfik's letter in support of tenure for Dr.</p> <p>6 Nikolova.</p> <p>7 Do you recognize that?</p> <p>8 A. I do.</p> <p>9 Q. Is there -- did you see this letter</p> <p>10 prior to Chair Tewfik sending it to you as part</p> <p>11 of the official promotion packet?</p> <p>12 A. I believe I saw an earlier version of</p> <p>13 this letter that did not include the last two</p> <p>14 sentences of the first paragraph.</p> <p>15 And I believe that through Jerry I --</p> <p>16 I said that Ahmed had to do a better job of</p> <p>17 justifying her -- I'm forgetting the right -- the</p> <p>18 correct verb, maybe it's "explaining" -- why the</p> <p>19 case was being considered now. And so --</p> <p>20 Q. I think "justify" is the word that's</p> <p>21 used in that email.</p> <p>22 A. Yeah. So I believe that the</p> <p>23 second -- the last two sentences of the first</p> <p>24 paragraph on the first page were added to this</p> <p>25 document in response to my letter --</p>

<p style="text-align: right;">294</p> <p>1 Q. Okay.</p> <p>2 A. -- in response to my email, because</p> <p>3 that is part of the University guidelines that</p> <p>4 the Dean and the Department Chair need to include</p> <p>5 that sort of information.</p> <p>6 Q. Okay. And this is -- this adds the</p> <p>7 additional information that -- that Dr. Nikolova</p> <p>8 had requested this -- this consideration that she</p> <p>9 go up considering the time that she was a -- a</p> <p>10 faculty member, correct?</p> <p>11 A. That is correct.</p> <p>12 Q. And -- and Chair Tewfik acknowledged</p> <p>13 that -- he doesn't say whether or not he agreed</p> <p>14 to that or not here, does he?</p> <p>15 A. He does not. And actually the</p> <p>16 decision to move the case forward depends on a</p> <p>17 vote of the Budget Council.</p> <p>18 So therefore it's -- so he is -- he</p> <p>19 is correct that she could have asked for it, but</p> <p>20 he -- it would have been -- he did not make a</p> <p>21 commitment to her.</p> <p>22 Q. Right. But he doesn't say he did or</p> <p>23 not -- whether he did or not?</p> <p>24 A. That's -- that correct; right.</p> <p>25 Q. He doesn't say one way or the other?</p>	<p style="text-align: right;">296</p> <p>1 I -- I believe that there -- we have</p> <p>2 been putting some information in the offer letter</p> <p>3 lately, but at the time I do not believe it was</p> <p>4 in her offer letter.</p> <p>5 Q. Okay. But you -- if -- if there</p> <p>6 was -- being the professional that you are and --</p> <p>7 and the collegial person that you are -- purport</p> <p>8 yourself to be, you would expect that if he had</p> <p>9 told her that that would be possible, that there</p> <p>10 would be an effort to honor that?</p> <p>11 MR. DOWER: Objection;</p> <p>12 form.</p> <p>13 A. I think we have -- I think the -- the</p> <p>14 issue is the President's Committee has had --</p> <p>15 has -- the President at the time that she was</p> <p>16 extended an offer would have been President</p> <p>17 Powers, and, as I spoke earlier, the President's</p> <p>18 Committee had discussed how they were looking at</p> <p>19 early promotion, and it -- their perception or</p> <p>20 their -- their view of early -- of accelerated</p> <p>21 promotion had changed with time. So I'm sorry,</p> <p>22 would you repeat the question? -</p> <p>23 MR. NOTZON: Can you</p> <p>24 help me, Tommi?</p> <p>25 (Previous record read.)</p>
<p style="text-align: right;">295</p> <p>1 A. Correct.</p> <p>2 Q. And did you talk to him to see if he</p> <p>3 made a commitment to her?</p> <p>4 A. So -- hold on a second.</p> <p>5 As I remember, Dr. Nikolova was</p> <p>6 recruited before I became Dean, so she was</p> <p>7 recruited during the '12/'13 academic year, so I</p> <p>8 was not part of any discussions at the time.</p> <p>9 I -- I don't remember if I asked him</p> <p>10 specifically if there was a commitment.</p> <p>11 Q. And when you -- when you say</p> <p>12 "commitment," what are you understanding that</p> <p>13 means?</p> <p>14 Are you saying, you know, an</p> <p>15 acknowledgment? A handshake? A written and</p> <p>16 notarized document/contract? What -- what are</p> <p>17 you saying when you say "commitment"?</p> <p>18 A. It would have been a -- an oral</p> <p>19 conversation.</p> <p>20 Q. Okay.</p> <p>21 A. As -- as I mentioned, the actual</p> <p>22 decision to move a case forward depends on a vote</p> <p>23 of the Budget Council, and so that -- it -- it</p> <p>24 would not be a notarized document; it would not</p> <p>25 be stated in the offer letter.</p>	<p style="text-align: right;">297</p> <p>1 A. I believe that the case -- that Ahmed</p> <p>2 would have discussed the case with the Budget</p> <p>3 Council for their consideration.</p> <p>4 BY MR. NOTZON:</p> <p>5 Q. So that would be "yes"?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. And elsewhere in this pile of</p> <p>8 paper there is a statement about a commitment to</p> <p>9 Dr. Heidari, that a commitment was made to her to</p> <p>10 have her go up considering the time spent at --</p> <p>11 on faculty elsewhere.</p> <p>12 Is that commitment also -- was that</p> <p>13 also a verbal commitment?</p> <p>14 MR. DOWER: Objection;</p> <p>15 form.</p> <p>16 A. To the best of my knowledge it was,</p> <p>17 for the reasons that I stated earlier.</p> <p>18 BY MR. NOTZON:</p> <p>19 Q. And who was that commitment with and</p> <p>20 to, if you -- if you know?</p> <p>21 A. Well, the Department Chairs are the</p> <p>22 people who are negotiating with the faculty</p> <p>23 members -- with Assistant Professors, so it would</p> <p>24 have been Jon Olson would have been negotiating</p> <p>25 with her.</p>

<p style="text-align: right;">298</p> <p>1 Q. Okay. It wasn't you?</p> <p>2 A. It was not me, no. I -- I do not</p> <p>3 negotiate with Assistant Professors.</p> <p>4 Q. Okay. I just wanted -- I just didn't</p> <p>5 know. I -- I didn't know who it was, so...</p> <p>6 A. Right.</p> <p>7 Q. But you had made reference to the</p> <p>8 commitment in your evaluation, I believe.</p> <p>9 So you understood the commitment had</p> <p>10 been made because Chair Olson would have told you</p> <p>11 about it?</p> <p>12 A. That's correct.</p> <p>13 Q. Okay. Do you -- in looking at Chair</p> <p>14 Tewfik's letter and from your memory of it -- I'm</p> <p>15 assuming you prepared for your deposition today</p> <p>16 and reviewing this letter.</p> <p>17 Would you agree that this is a letter</p> <p>18 in support of Dr. Nikolova?</p> <p>19 A. I believe it -- it is that, yes, and</p> <p>20 he states he strongly endorses her promotion.</p> <p>21 Q. Do you read the letter to be</p> <p>22 consistent with a strong endorsement for</p> <p>23 promotion?</p> <p>24 A. I -- I did interpret the letter that</p> <p>25 way, yes.</p>	<p style="text-align: right;">300</p> <p>1 two sentences the Budget Council recognized her</p> <p>2 strong accomplishments and potential, and it goes</p> <p>3 on to say "32 Yes, 1 No, 2 Abstain, and 2</p> <p>4 Ineligible."</p> <p>5 And so that is the full Professors,</p> <p>6 and so I -- I could -- I could have said</p> <p>7 "Professors," but to be honest, "Professors" and</p> <p>8 "Budget Council" are synonymous.</p> <p>9 Q. No, my -- my question is you credit</p> <p>10 the concern from the Budget Council when the</p> <p>11 concern clearly from Professor Tewfik is only a</p> <p>12 couple of Professors.</p> <p>13 A. Yes, that is correct.</p> <p>14 Q. So you're -- you're equating "couple"</p> <p>15 with "32" -- 30 -- actually, "35." That's not</p> <p>16 fair, is it?</p> <p>17 A. So I -- I had a conversation with</p> <p>18 Ahmed before he wrote this letter, right after</p> <p>19 the vote had come in, and he shared with me the</p> <p>20 comments that were -- the written comments that</p> <p>21 came in as part of that. As I remember, there</p> <p>22 were four.</p> <p>23 And I know that you have these</p> <p>24 because, again, in preparation I saw that --</p> <p>25 those comments several times in the documents</p>
<p style="text-align: right;">299</p> <p>1 Q. Okay. And in your evaluation,</p> <p>2 Exhibit 2, you say that "The" Budget Committee --</p> <p>3 the "Budget Council had expressed concerns about</p> <p>4 her weak engagement."</p> <p>5 Do you remember that?</p> <p>6 A. I do, yes.</p> <p>7 Q. And -- and would you agree that Chair</p> <p>8 Tewfik's letter does not talk about the Budget</p> <p>9 Council's concern about a weak engagement? He</p> <p>10 said "a couple of people" had made comment about</p> <p>11 it.</p> <p>12 Do you recall that?</p> <p>13 A. He said -- that is quoting him</p> <p>14 correctly, yes.</p> <p>15 Q. And that he specifically attributes</p> <p>16 the one negative and two abstentions to those</p> <p>17 couple of Professors that raised concerns about</p> <p>18 her relatively weak engagement?</p> <p>19 A. That is correct.</p> <p>20 Q. Why would you characterize that as</p> <p>21 coming from the Budget Council in total in your</p> <p>22 evaluation?</p> <p>23 A. Oh, I'm -- I'm sorry. The -- the</p> <p>24 Budget Council is the full Professors, so</p> <p>25 their -- that vote -- okay, so if I go up one or</p>	<p style="text-align: right;">301</p> <p>1 that we sent you.</p> <p>2 There was one comment there that</p> <p>3 talked about the relatively weak engagement in</p> <p>4 the Department, and Ahmed had conveyed to me</p> <p>5 orally that he felt that was -- that more than --</p> <p>6 that was a common concern amongst the Budget</p> <p>7 Council, and so I -- I think that was the basis</p> <p>8 of my statement, was an oral con -- discussion</p> <p>9 with him.</p> <p>10 Q. So do I take it from your testimony</p> <p>11 just now that you're accusing Professor Tewfik of</p> <p>12 inaccurately documenting the communications he</p> <p>13 received from members of the Budget Council?</p> <p>14 MR. DOWER: Objection;</p> <p>15 form.</p> <p>16 A. So -- so Dr. Tewfik is accurately</p> <p>17 rep -- representing the -- the vote that took</p> <p>18 place at the meeting when Dr. Nikolova's case was</p> <p>19 discussed, and there were four comments and there</p> <p>20 was one -- there were -- and he -- so I believe</p> <p>21 he is correct in saying "a couple of Professors."</p> <p>22 Q. He didn't say a couple of Professors</p> <p>23 "wrote comments." He said "raised concerns." No</p> <p>24 one else raised concerns, according to this</p> <p>25 letter.</p>

<p>302</p> <p>1 MR. DOWER: Objection; 2 form. 3 A. So the -- the requirements given by 4 the guidelines for the University are that the 5 Department Chair needs to document the 6 conversation that takes place in the Budget 7 Council when a vote is being considered. 8 And so he says, "a couple of 9 Professors raised concerns," and then he 10 attributed the negative vote and the abstentions, 11 which would be one "no" and two "abstentions" to 12 those concerns. 13 Q. If he's supposed to communicate 14 accurately -- I would assume -- accurately assume 15 in that communication -- the communications from 16 the Budget Council, and you're saying that he 17 verbally told you that it was a general 18 concern -- a general consensus among the Budget 19 Council that they were worried or concerned about 20 her weak engagement, and he doesn't say that at 21 all, he only said, "A couple have raised 22 concerns" and he leaves it there and doesn't say 23 anything about a broader concern, but you're 24 saying he did, he told you? 25 MR. DOWER: Objection;</p>	<p>304</p> <p>1 Q. And did he also convey to you that 2 those conversations he had with other full 3 Professors was they were making or disregarding 4 the fact that Dr. Nikolova had been pregnant 5 twice? 6 MR. DOWER: Objection; 7 form. 8 A. I don't remember ever discussing a 9 link between Dr. Nikolova's performance in the 10 Department and her pregnancy. 11 BY MR. NOTZON: 12 Q. Chair Tewfik specifically references 13 it in this letter, doesn't he? 14 A. Well, he -- he noted that she was 15 on -- 16 Q. Do you want me to point out to you 17 where I'm talking about? 18 A. If you don't mind, please. I'd 19 appreciate that. 20 Q. I'm talking about at the last 21 page, -- 22 A. Okay. 23 Q. -- the long -- the two sentences -- 24 three sentences under "Service." 25 A. (Witness reviews documents.) So I</p>
<p>303</p> <p>1 form. 2 A. So I said -- 3 BY MR. NOTZON: 4 Q. That goes -- that goes back to my 5 question. 6 Are you saying that Chair Tewfik is 7 misrepresenting what happened in that Budget 8 Council meeting in this letter in support of Dr. 9 Nikolova? 10 MR. DOWER: Objection; 11 form. 12 BY MR. NOTZON: 13 Q. Is that your testimony? 14 MR. DOWER: Objection; 15 form. 16 A. I am stating in any way that he 17 mis -- misrepresented the conversations during 18 that meeting. 19 What he -- he conveyed to me in -- 20 orally was that in previous conversations, so it 21 occurred prior to this Budget Council meeting, 22 that had been some of the conver -- that had been 23 some of the concerns raised by full Professors in 24 the Department. 25 BY MR. NOTZON:</p>	<p>305</p> <p>1 interpreted that as -- maybe in two ways. I 2 mean, one reason why the level of involvement was 3 lower was because she actually was a resident in 4 California for two semesters. 5 Q. It doesn't say "professional 6 circumstances," does it? 7 A. This says "personal," you're right. 8 Q. And it says -- 9 A. However, there is a personal -- 10 Q. And it says "personal circumstances 11 at this stage of her life," which is the time at 12 which she is having babies. 13 MR. DOWER: Objection; 14 form. 15 BY MR. NOTZON: 16 Q. She could be at the Simons Institute 17 in her 50's or 60's or 70's as a professional. 18 Isn't it clear that he's referencing her having 19 two pregnancies during her tenure promotion 20 period? 21 A. So as I told you, I only knew of one 22 pregnancy at the time that I wrote my letter. I 23 did not realize that she was pregnant and when 24 her second child was born. 25 Because the modified instructional</p>



<p>306</p> <p>1 duties are held at the Department level, and I 2 had told you I didn't know she was pregnant. All 3 I knew is she had an uneven teaching load and 4 that she -- she spent two semesters at Berkeley. 5 Now that could happen without her 6 being pregnant, so the fact -- so in my mind, she 7 only had one pregnancy, and that -- I mean, so I 8 don't think there's -- I -- I did not know she 9 was pregnant a second time. That did not factor 10 into my decision at all. 11 Q. Even if it was one pregnancy, it's 12 still -- he references a personal circumstance 13 at -- at this stage of her life, and you had a 14 conversation -- you have direct conversations 15 with Dr. Tewfik about this letter. You could ask 16 him what he means. 17 MR. DOWER: Objection; 18 form. 19 BY MR. NOTZON: 20 Q. You're saying you didn't? 21 A. So I had a -- I did not ask 22 specifically. I had a conversation with him 23 because he was not meeting the University 24 guidelines for what needed to be included in the 25 Department Chair's letter.</p>	<p>308</p> <p>1 concerns." And so that could have been an 2 overstatement, I will agree with that. 3 (Exhibit 7 marked for identification.) 4 BY MR. NOTZON: 5 Q. Okay. Let me put up another exhibit. 6 This will be No. 7. I haven't gotten any faster, 7 even though you've gotten faster. 8 Okay. Exhibit 7 should be there. 9 A. I have it. I'm sorry. 10 Q. Okay. So earlier in your testimony 11 you took issue with Dr. Nikolova saying that she 12 had misrepresented her funding spending I -- I 13 think was the gist of your disagreement with her 14 rebuttal of your evaluation. 15 Is there anything else that you 16 reviewed in Dr. Nikolova's rebuttal that you 17 disagreed with factually? 18 MR. DOWER: Robert, 19 I'm going to suggest that we take 20 a quick break so she can read it, 21 and that way the time won't be 22 held against you. 23 MR. NOTZON: Sure. 24 MR. DOWER: Okay. Let's 25 go off -- off the record.</p>
<p>307</p> <p>1 So that was why I had the 2 conversation with him, to add the explanation of 3 why the case was being considered now. 4 Q. And this sentence has to be read in 5 context with the prior sentence we were reading, 6 right, where it says, "As noted by some of my 7 colleagues during the BC discussions, her level 8 of involvement in the Department has been lower 9 than average," okay? 10 That has to be read in context 11 with the "a couple of people raised concerns," 12 right? 13 A. Yes, I believe so. 14 Q. Okay. You can't take that sentence 15 and -- and read it on its own and say, "Oh, the 16 BC in Total had a concern," can you? You can't 17 ignore that he wrote what he wrote at the 18 beginning of this letter is my question, can you? 19 A. I -- I agree with that. 20 Q. Okay. 21 A. I'm trying to -- I'm sorry. I'm 22 trying to remember what I wrote. 23 Q. Do you want to see it? 24 A. I can see it. I'm sorry. I see it. 25 You're right. It says, "Budget Council expressed</p>	<p>309</p> <p>1 THE COURT REPORTER: We're 2 going off the record at 5:34 p.m. 3 (Recess held from 5:34 p.m. to 5:57 p.m.) 4 THE COURT REPORTER: We're 5 going back on the record at 5:57 6 p.m. 7 MR. SCHMIDT: And we are 8 recording, as well. 9 MR. NOTZON: Okay. 10 MR. DOWER: Bob -- Bob, 11 your video's still on, so if you 12 want to go secretive... 13 MR. SCHMIDT: I do. 14 BY MR. NOTZON: 15 Q. All right. Dean, so you were going 16 to let me know if there were any other issues in 17 Professor -- Dr. Nikolova's rebuttal that you had 18 factual disagreement with besides the spending of 19 her funding. 20 A. That is correct. So -- 21 Q. If you want to just list them... You 22 don't have to necessarily explain them. 23 A. Sure. So I -- I do not know that EE 24 360C is one of the hardest classes to get high 25 teaching evaluations for. I -- I don't have</p>

<p>310</p> <p>1 direct knowledge of that area. I'd have to check 2 that. 3 I also, as I mentioned to you, I did 4 not know that she was pregnant and suffering from 5 morning sickness at the time I wrote my letter. 6 And then I do have concern -- I -- I 7 disagree, as you -- as we mentioned, about the 8 funding to sustain a research program. Normally 9 we don't -- if there is a no-cost extension, the 10 faculty member would have listed that on their CV 11 so that it would indicated when the funding would 12 actually end. That was not done. 13 And then she talked about the fact 14 that she started in January and that year did 15 not -- as a result, that year did not count -- I 16 agree that that is an issue. 17 One of the challenges is that the ECE 18 is often one of the latest Departments to extend 19 offers, and offers that are not extended by I 20 think it's May 1st, you need to request 21 permission from the Provost's Office. And so it 22 could have been done. I was not Dean at the 23 time, so -- 24 Q. Requested from the Provost's Office 25 at UT or the other institution?</p>	<p>312</p> <p>1 to be 250,000 a year; expected expenses. I 2 disagree with that. 3 And then obviously that would impact 4 the length of time over which her funding 5 would -- would continue. 6 Q. I -- I -- I assumed you'd already 7 testified about that, but if that's new 8 information, fine. But I was trying to ask you 9 if there was anything that you hadn't already 10 talked about. 11 A. That is -- those are the factual 12 issues that I've already -- that I haven't talked 13 about. 14 Q. Okay. All right. Would you say -- 15 and I -- I kind of asked this before, but I -- 16 it's just a slightly different question. 17 I asked you if Chair Tewfik was a 18 strong supporter of Dr. Nikolova's promotion to 19 tenure, and you said based upon his letter, he 20 was. 21 I'm asking if in addition to that, 22 because I can read the letter, too, was he off 23 the record also a strong supporter of her 24 promotion to tenure, in conjunction with his 25 letter.</p>
<p>311</p> <p>1 A. So the UT Provost's Office could have 2 sent a letter to the Provost at Texas A&amp;M to 3 request an earlier start. 4 Q. And did they? 5 A. No, they didn't. They -- there was a 6 delay, and that -- that -- technically, that had 7 an impact on her directly. There's no -- 8 Q. Do you know why they didn't ask A&amp;M? 9 A. I don't know. I was not Dean at the 10 time. 11 Q. Okay. So I -- I'm specifically 12 asking for issues that you had with the factual 13 accuracy. 14 A. Right. 15 Q. So -- 16 A. Yeah, I'm not -- I think my primary 17 concerns with the factual accuracy are related to 18 the sustainability of her research program. 19 Q. Okay. And other than what you 20 testified to already about how much she has spent 21 and when, is there any other issue that is 22 factually inaccurate in her rebuttal -- that you 23 think is factually inaccurate -- inaccurate in 24 her rebuttal? 25 A. Right. So she estimated her expenses</p>	<p>313</p> <p>1 A. His letter was stronger than personal 2 conversations we had had. 3 Q. Okay. And what conversations had you 4 had and when that led you to believe -- and what 5 -- what were they that led you to believe that he 6 didn't hold the same personal opinion as he did 7 in writing? 8 A. So we would have had annual 9 conversations about salary increases as part of 10 the merit review process. And I'm using "we" 11 here to refer to Jerry Speitel and myself meeting 12 with Ahmed. 13 And in those, he would -- he would 14 indicate that -- several times, and there were a 15 series of these, he mentioned that he did not 16 think her performance was -- he -- I'm -- I'm 17 sorry. I'm trying to be precise and I apologize. 18 His discussion of her was not as 19 strong as indicated in his letter for promotion. 20 Q. Okay. And -- and what are the things 21 he said that led you to believe that he was not a 22 strong supporter of her? 23 A. Well, one year the -- the Review 24 Committee within Electrical and Computer 25 Engineering ranked about 90 percent of the</p>

<p>314</p> <p>1 faculty members as "exceeds expectations," and  2 the University definitions are that "meets  3 expectations" should be the norm for the  4 Department.  5 So Ahmed did a separate review that  6 he -- that he used for the merit allocations, and  7 he used a scale from 1 to 3, with "1" being  8 highest and "3" being lowest. He assigned her a  9 value of 2.5.  10 Q. And that was some year before she  11 went up?  12 A. Yes, it was.  13 Q. Okay. Let me ask the same question  14 again for the year she went up.  15 A. May I look at the data, so -- because  16 I'm not remembering -- may -- may I look at my  17 information?  18 Q. What I'm asking is, is there  19 something that happened during the year that she  20 went up when he wrote this letter of strong  21 support for her? Because if she did something  22 some years ago and she had a trend, as you like  23 to put it, up, I don't think we should be  24 saddling her with that comment that he made about  25 her back when because you like upward trends.</p>	<p>316</p> <p>1 A. I've just shared that document as an  2 Excel spreadsheet. I believe this was shared  3 with you earlier.  4 Q. I see it.  5 A. Okay. So if I open -- if I look at  6 this document, Dr. Nikolova was considered for  7 promotion in the '18/'19 academic year.  8 Q. Yeah.  9 A. So the most recent review would have  10 been in the '17/'18 academic year. Both the  11 Committee and the Department Chair gave her  12 "exceeds expectations," and her merit raise  13 exceeded the raise goal.  14 So you are correct, that there is an  15 upward trend there.  16 Q. So you had no indication that Chair  17 Tewfik was not a strong supporter of her when she  18 went up for tenure?  19 A. I had past information. I did not  20 have current information.  21 Q. Okay.  22 A. The --  23 Q. Were you influenced by that past  24 info -- information, that you didn't --  25 A. I'm sorry. May I complete -- may I</p>
<p>315</p> <p>1 So the year that she went up, is  2 there something that you're recalling that you  3 felt like Chair Tewfik was not as strong a  4 supporter of Dr. Nikolova, if at all, than his  5 letter was?  6 A. May I look at some data I prepared to  7 answer that question?  8 Q. Sure.  9 A. (Witness reviews documents.) Okay.  10 So --  11 Q. And what are you looking at?  12 A. So I believe this was also shared  13 with you. This is a spreadsheet.  14 Q. Can you go ahead and put it up?  15 A. Yes, I will try to do that. Hold on  16 a second. I will share with everyone, and I  17 apologize, let me -- sorry. It's open, so I need  18 to close it.  19 Q. I don't think you have to, but -- at  20 least the way I do it. Are you on a -- are you  21 on a PC or a Mac?  22 A. I'm on a PC. Okay. I have just --  23 (Exhibit 10 marked for identification.)  24 BY MR. NOTZON:  25 Q. Okay.</p>	<p>317</p> <p>1 complete the previous question?  2 Q. I'm sorry. I didn't realize I was  3 interrupting you. I'm sorry.  4 A. The only indication I had was, as I  5 mentioned earlier, is that he indicated the  6 comments about engagement in the Department was  7 more prevalent than as discussed within the  8 Budget Council.  9 So I just want to make that clear.  10 And then, I'm sorry, your question is?  11 Q. Following up on that question,  12 that -- did you understand that to be a personal  13 opinion he held, or he was conveying what others  14 in the Budget Council, from your understanding,  15 that he was conveying?  16 My -- my -- my whole questioning  17 right now is about whether or not him as an  18 individual was not as strong a supporter for Dr.  19 Nikolova as his letter states and as you've  20 testified his letter states.  21 A. So I -- my memory of the conversation  22 is that he agreed with that sentiment that I just  23 mentioned.  24 Q. Okay. Even though in his letter he  25 said it's understandable because of current her</p>

<p>318</p> <p>1 circumstances at this stage of her life?</p> <p>2 A. Yes.</p> <p>3 Q. So he wasn't making that allowance</p> <p>4 for her in his oral communication with you?</p> <p>5 A. He did not state that in the</p> <p>6 conversation --</p> <p>7 Q. Okay.</p> <p>8 A. -- to the best of my memory.</p> <p>9 Q. Thank you. Yep, yep.</p> <p>10 THE COURT REPORTER: Do</p> <p>11 we want to mark that as an exhibit,</p> <p>12 or no?</p> <p>13 MR. NOTZON: Yes, please.</p> <p>14 Yeah.</p> <p>15 THE COURT REPORTER: That</p> <p>16 will be No. 10. Thank you.</p> <p>17 BY MR. NOTZON:</p> <p>18 Q. Before we get to 8 and 9, I wanted to</p> <p>19 ask you a question on -- I'm not going to go --</p> <p>20 I -- I don't think I have time to get into the</p> <p>21 whole salary thing.</p> <p>22 I just wanted to ask you one question</p> <p>23 on salary, and that is, I understand that there</p> <p>24 are four or five first-year Assistant Professors</p> <p>25 with no teaching experience that are making more</p>	<p>320</p> <p>1 A. I do not have a memory of that</p> <p>2 conversation.</p> <p>3 Q. Okay. Did those first-year</p> <p>4 Professors, were they employed last year?</p> <p>5 A. So one -- I think one problem --</p> <p>6 potential problem, I don't know -- I don't</p> <p>7 remember the exact dates, is that they were</p> <p>8 offered salaries before we knew the merit</p> <p>9 increases were cancelled.</p> <p>10 So we were anticipating that there</p> <p>11 would be a merit increase that would allow us to</p> <p>12 adjust some of the Assistant Professor salaries,</p> <p>13 but then that was cancelled due to COVID, as I've</p> <p>14 mentioned.</p> <p>15 And when this happens, we -- we have</p> <p>16 to make it a priority to look at it very</p> <p>17 carefully the next time we have a merit raise</p> <p>18 goal.</p> <p>19 I -- we do not yet know if there will</p> <p>20 be a merit raise goal for this -- during this</p> <p>21 academic year.</p> <p>22 Q. It -- it could be that I'm just</p> <p>23 getting tired, but I'm -- I'm not sure if you</p> <p>24 answered my question. If you did, I'll chalk it</p> <p>25 up to being tired.</p>
<p>319</p> <p>1 money -- have a higher salary than Dr. Nikolova</p> <p>2 is sitting there with, you know, eight, ten</p> <p>3 years' experience.</p> <p>4 Is -- is -- can you explain that?</p> <p>5 A. I believe that is the case. It is my</p> <p>6 understanding, and I'm -- I'm giving a</p> <p>7 generalization here, is that in order to hire</p> <p>8 individuals in some fields where some of the high</p> <p>9 tech firms are giving starting bonuses and stock</p> <p>10 options, this has had a big -- this has really</p> <p>11 upset our salary scale, and so that may be a</p> <p>12 contributing reason to it.</p> <p>13 Q. Would she be entitled to this equity</p> <p>14 adjustment that we were talking about earlier?</p> <p>15 A. Well, the equity adjustment review</p> <p>16 occurred during the '19/20 academic year.</p> <p>17 Q. Last year.</p> <p>18 A. Last year. And her salary, as I</p> <p>19 remember, remained the same. So in our</p> <p>20 discussions with a -- with the new Department</p> <p>21 Chair, that would be Diana Marculescu who started</p> <p>22 in December of 2019, that equity adjustment was</p> <p>23 not part of that -- did -- did not result from</p> <p>24 that conversation.</p> <p>25 Q. Do you know why?</p>	<p>321</p> <p>1 Were those first-year Professors with</p> <p>2 no teaching experience that I've mentioned, the</p> <p>3 three, four, five or however many of them there</p> <p>4 are, were they employed for the first time this</p> <p>5 year, or were they employed for the first time</p> <p>6 last year, or a little of both?</p> <p>7 A. I would have to look at that. I</p> <p>8 honestly don't know when everyone actually</p> <p>9 started. We could enter that later if you would</p> <p>10 like that specific information.</p> <p>11 Q. Well, I'm -- I'm sure we can look it</p> <p>12 up. I just was asking if you knew.</p> <p>13 A. We've had -- we've had -- had a</p> <p>14 number of faculty hires in ECE over the past few</p> <p>15 years, and so I would assume -- I know some</p> <p>16 faculty members started in -- in the Spring of</p> <p>17 '19, some started in the Spring of 2020.</p> <p>18 I don't know what their salaries are</p> <p>19 relative to Dr. Nikolova's. I'd have to look</p> <p>20 that up.</p> <p>21 (Exhibit 8 marked for identification.)</p> <p>22 BY MR. NOTZON:</p> <p>23 Q. Okay. Let's go ahead and look at</p> <p>24 Exhibit 8, which is the Dimakis evaluation by</p> <p>25 you.</p>

<p style="text-align: right;">322</p> <p>1 A. Right.</p> <p>2 Q. And so this was a recommendation that</p> <p>3 you wrote back -- is it your -- the second</p> <p>4 year -- your -- your first full-time, Dean?</p> <p>5 A. That is correct.</p> <p>6 Q. Okay. And he had only been at UT for</p> <p>7 two years?</p> <p>8 A. I believe that is correct. Actually,</p> <p>9 yeah, he's -- it states in there he's been at his</p> <p>10 current ranking for one and a half years.</p> <p>11 Q. Okay. And so the justification</p> <p>12 for -- and so how many years early is he?</p> <p>13 A. I -- I would have to calculate it,</p> <p>14 Sir. I don't remember. Oh, the cover sheet -- I</p> <p>15 don't believe it's on the cover sheet, so he</p> <p>16 would be four years early using the current</p> <p>17 accounting.</p> <p>18 Q. Okay.</p> <p>19 A. But you'll notice that the</p> <p>20 documentation of our current sheet is not the</p> <p>21 same as this, (indicating), so this is one that</p> <p>22 reflected the changes that had been made in the</p> <p>23 process.</p> <p>24 Q. But it was still six years back when</p> <p>25 you became Dean?</p>	<p style="text-align: right;">324</p> <p>1 reviewed the -- the guidelines for that year in</p> <p>2 particular, but I do --</p> <p>3 Q. Okay.</p> <p>4 A. I believe that the -- the explanation</p> <p>5 or at least the President's interpretation of</p> <p>6 what the explanation should be was after this</p> <p>7 case was considered.</p> <p>8 Q. Okay. Now if -- if you look at</p> <p>9 his -- in that first -- in that first paragraph,</p> <p>10 it seems confusing to me because it says he had</p> <p>11 three and a half years at USC and one and a half</p> <p>12 years at UT, and that adds up to five in my math,</p> <p>13 but it says here it would be six.</p> <p>14 A. So this addresses the concern that</p> <p>15 you raised earlier that the year in which the</p> <p>16 review takes place is counted as a year of</p> <p>17 probationary service.</p> <p>18 What this also points to was my</p> <p>19 conversation earlier that this -- this letter was</p> <p>20 drafted by the Promotion and Tenure Committee,</p> <p>21 and because they are not as familiar with the</p> <p>22 rules, they would often use, just as this first</p> <p>23 paragraph indicates, terminology that is not</p> <p>24 quite consistent with what the University is</p> <p>25 expected to see.</p>
<p style="text-align: right;">323</p> <p>1 A. The -- the total time in probationary</p> <p>2 status would have been -- that's why I looked at</p> <p>3 the form. Like he has two years of probationary</p> <p>4 status here, so this would be four years early,</p> <p>5 yes.</p> <p>6 Q. Okay. And the justification for his</p> <p>7 accelerated consideration was his prior service</p> <p>8 at USC, correct?</p> <p>9 A. That is my understanding, yes.</p> <p>10 Q. Okay. And is there any other</p> <p>11 justification?</p> <p>12 A. Well, I spent quite a bit of time</p> <p>13 telling you that after Provost -- after Provost</p> <p>14 McInnis came in there had been a lot of</p> <p>15 discussion about early promotions.</p> <p>16 So this is before that time, so</p> <p>17 President Powers was President, and so this was a</p> <p>18 different -- I'll call it a different era, but</p> <p>19 certainly a different President was leaving his</p> <p>20 mark on the promotion and tenure process.</p> <p>21 Q. So at this time you didn't have to</p> <p>22 explain more than the fact that he had at least</p> <p>23 six years of a -- of a -- an Assistant Professor</p> <p>24 faculty experience under his belt?</p> <p>25 A. I don't believe that I -- I have not</p>	<p style="text-align: right;">325</p> <p>1 So that's one of the reasons that</p> <p>2 I -- I shift away from editing -- this is</p> <p>3 factually correct, but it's -- it's not very</p> <p>4 clear.</p> <p>5 Q. It's using wrong -- it's using wrong</p> <p>6 numbers?</p> <p>7 A. Well, the -- the numbers are correct,</p> <p>8 his case -- if the -- if the case is successful</p> <p>9 and if his time at USC is considered, he will</p> <p>10 have served as an Assistant Professor for a total</p> <p>11 of six years, so that is a correct statement.</p> <p>12 It does not refer directly to</p> <p>13 probationary status as we would now.</p> <p>14 Q. Okay. Would you also agree that he</p> <p>15 is not, according to the term, "meeting a high</p> <p>16 bar on all areas," that he wouldn't meet that</p> <p>17 standard?</p> <p>18 A. No. I believe he would meet that</p> <p>19 standard.</p> <p>20 Q. Is his funding less than Dr.</p> <p>21 Nikolova?</p> <p>22 A. Well, he raised 3.4 million in</p> <p>23 research funding over the course of his career,</p> <p>24 with his Chair being 1.8. It also -- and it</p> <p>25 occurred earlier, so I --</p>

<p style="text-align: right;">326</p> <p>1 Q. But Dr. Nikolova's at 1.8.</p> <p>2 A. You asked me was it less.</p> <p>3 Q. Well, if she didn't make it, how can</p> <p>4 he make it? If she didn't make the high bar,</p> <p>5 then how can he at the same funding level?</p> <p>6 A. So one thing that's not evident here</p> <p>7 which I would have to look at is the -- okay.</p> <p>8 Let me make one more -- let me make a statement.</p> <p>9 I mentioned that one of the things</p> <p>10 the President's Committee started looking at</p> <p>11 during my time as Dean was whether grants</p> <p>12 extended beyond the probationary period.</p> <p>13 So that was not something that we</p> <p>14 were explicitly looking at or that I was asked to</p> <p>15 address at the time that this letter was written.</p> <p>16 There was a different Vice President</p> <p>17 for research, and so that was -- I -- I want to</p> <p>18 emphasize, you know, a holistic review of every</p> <p>19 case, and I do not go back and try to compare</p> <p>20 year for year. We try to review each case on its</p> <p>21 value.</p> <p>22 (Exhibit 9 marked for identification.)</p> <p>23 BY MR. NOTZON:</p> <p>24 Q. Okay. Let's go ahead and look at</p> <p>25 Exhibit 9, Dr. Heidari. Am I pronouncing that</p>	<p style="text-align: right;">328</p> <p>1 funding. It's on Page 3. There are a number of</p> <p>2 bullet points after that first sentence.</p> <p>3 That was not clear from her -- from</p> <p>4 her CV. I also believe that I asked for</p> <p>5 clarification about the relative competitiveness</p> <p>6 of some of these brands because I could not find</p> <p>7 information on the website about it.</p> <p>8 Q. She got consideration for things,</p> <p>9 like not re-establishing her research program,</p> <p>10 not getting funding because of the downturn in</p> <p>11 the petroleum industry. She got -- she got</p> <p>12 excuses for her flat spots, would that be</p> <p>13 accurate?</p> <p>14 A. She did get excuses for her flat</p> <p>15 spots, that is correct.</p> <p>16 Q. And would you agree that her</p> <p>17 publications are nowhere near Dr. Nikolova's?</p> <p>18 A. Dr. Nikolova made the point that</p> <p>19 their h-indices were very different. That is to</p> <p>20 be expected given the nature of their research,</p> <p>21 so... The petroleum engineering field is much</p> <p>22 smaller.</p> <p>23 Q. The citations are very different,</p> <p>24 too.</p> <p>25 A. That is correct. But I -- I told you</p>
<p style="text-align: right;">327</p> <p>1 right?</p> <p>2 A. Yes, I believe you are.</p> <p>3 Q. And this is a female, right?</p> <p>4 A. Yes. Dr. Heidari is -- is a woman,</p> <p>5 yes.</p> <p>6 Q. And she has three years at UT, so</p> <p>7 she's early, --</p> <p>8 A. That is correct.</p> <p>9 Q. -- or accelerated.</p> <p>10 And this is the year before Dr.</p> <p>11 Nikolova went up, correct?</p> <p>12 A. That is correct.</p> <p>13 Q. And it -- it seems as though -- well,</p> <p>14 one, the -- the evaluation's longer than Dr.</p> <p>15 Nikolova's, has more adjectives, has more quotes.</p> <p>16 A. Okay. I'm sorry. I did address that</p> <p>17 in my statement earlier. I told you that the</p> <p>18 Provost has specifically asked me to shorten the</p> <p>19 comments.</p> <p>20 Q. And you're saying that that direction</p> <p>21 was given in the 2018/2019 year?</p> <p>22 A. After the 2017/'18 review cycle, that</p> <p>23 was guidance was given to me. I also believe</p> <p>24 that this was not a straightforward case, and so</p> <p>25 I took the time to really understand her research</p>	<p style="text-align: right;">329</p> <p>1 that we do a holistic review of every faculty</p> <p>2 member, and so citations are -- citations,</p> <p>3 h-index are some of the factors that have a --</p> <p>4 have a big impact on -- that are very dependent</p> <p>5 on the research domain.</p> <p>6 Q. And other than she had prior</p> <p>7 experience, was there any other justification for</p> <p>8 her accelerated review?</p> <p>9 A. I have to admit, I would -- I did not</p> <p>10 remember this when I -- when I read this last</p> <p>11 night.</p> <p>12 There is a discussion of how she -- a</p> <p>13 commitment -- I'm quoting now the last paragraph</p> <p>14 on Page 4, "A commitment was made when she was</p> <p>15 recruited from Texas A&amp;M that her promotion case</p> <p>16 would be considered in a timely manner."</p> <p>17 Q. And you said you had gotten that from</p> <p>18 the Chair?</p> <p>19 A. Well, I don't negotiate with</p> <p>20 Assistants and Professors, so I would not -- the</p> <p>21 Department Chair would make -- would -- would</p> <p>22 have any type of discussion with them.</p> <p>23 Q. So -- so the same justification for</p> <p>24 her going up early. And how early would she be</p> <p>25 going up?</p>

<p>330</p> <p>1 A. She's going up early. She's going 2 up -- I believe it -- if I look on the first 3 sheet, it says that she has three years of 4 probationary status; that she'd be going up three 5 years early. 6 Q. Okay. Is -- is -- does she have the 7 full six if you count A&amp;M? 8 A. I believe she had four years at A&amp;M, 9 so she would have seven years total in rank. 10 Q. Okay. So her prior experience and a 11 commitment would be the reasons for her to be 12 able to go forward, justifying, using your word, 13 or explaining, using the actual policy word, for 14 the accelerated review; is that right? 15 MR. DOWER: Form. 16 Objection; form. Go ahead. 17 A. In this case, yes. 18 BY MR. NOTZON: 19 Q. Okay. Is that -- from your 20 understanding, is that sufficient? 21 A. Well, remember I did tell you that 22 the Committee gives feedback every year, and 23 amongst the feedback was that a discussion of how 24 we need to -- how service at another university 25 should be considered, so, I'll be honest, this</p>	<p>332</p> <p>1 Q. Okay. 2 MR. DOWER: Tommi, 3 how much time do we have left? 4 THE COURT REPORTER: We're 5 actually over by about three 6 minutes. 7 MR. NOTZON: Then we will 8 close it down. Thank you very much, 9 Dean Wood, and -- 10 MR. SCHMIDT: Actually, 11 can we stop for one second before 12 you close it down? 13 Are you okay with like two 14 or three -- let me -- can we pause 15 it and let me talk to Robert 16 off -- off the record? 17 MR. DOWER: Sure, yeah. 18 MR. SCHMIDT: If we -- 19 if we need to do like a five-minute 20 additional question period, are you 21 okay with that? 22 MR. DOWER: As long as 23 it's not a lawyer's five minutes, 24 because a lawyer's five minutes -- 25 MR. SCHMIDT: Yeah, okay,</p>
<p>331</p> <p>1 is -- they -- they felt we had too many cases 2 going up early, "early" in the sense of how much 3 time was spent at UT. 4 Q. Is this another example of that rule 5 that changed between '17/'18 and '18/'19? 6 A. That is my memory, yes. 7 Q. So Dr. Nikolova just has really bad 8 luck in all these policy changes? 9 A. She had very bad luck here. 10 Q. Okay. Had nothing to do with any 11 other basis? 12 A. No. 13 MR. DOWER: Objection; 14 form. 15 BY MR. NOTZON: 16 Q. Professor -- I mean, Dr. Heidari, she 17 did not have any modified instructional duties, 18 correct? 19 A. She did not. 20 Q. And she didn't have any probationary 21 extensions, correct? 22 A. She did not. 23 Q. And she didn't get pregnant, correct? 24 A. I don't know if she's -- if she's 25 pregnant. I don't know if she's married.</p>	<p>333</p> <p>1 okay. 2 MR. DOWER: -- means 15 to 3 20. Let's -- let's try to keep it 4 to a normal person's five minutes. 5 MR. SCHMIDT: Great. 6 Okay. Thank you. We'll -- we'll 7 be right back on the record. 8 THE COURT REPORTER: We're 9 going off -- we're going off the 10 record at 6:29 p.m. 11 (Recess held from 6:29 p.m. to 6:34 p.m.) 12 THE COURT REPORTER: We 13 are back on the record at 6:34 p.m. 14 MR. NOTZON: Okay. Thank 15 you for your agreement to go over 16 just a little bit, Mr. Dower. 17 BY MR. NOTZON: 18 Q. Dean Wood, I asked you some questions 19 about the President's Committee where you were 20 talking about Dr. Nikolova, and I didn't ask you 21 what you recall discussing during that meeting. 22 Could you -- 23 A. I think the information that you 24 shared with me prompted me on that. 25 So I think the -- I think the</p>



<p style="text-align: right;">334</p> <p>1 information that I would have sheared was that  2 in -- in personal con -- conversations with me,  3 Dr. Tewfik was not as positive as he was in his  4 letter.  5 Q. Okay. So you conveyed that to the --  6 the President's Committee?  7 A. I believe that is the information  8 that I conveyed to the President's Committee.  9 Q. Okay. Do you recall any questions  10 from the President's Committee or concerns that  11 they had?  12 A. There were -- there were a number of  13 questions about teaching, but that is always the  14 case.  15 I think the -- they had questions  16 about research funding also, so we talked about  17 that. I'm not sure I remember -- I have some  18 follow-up notes that I made afterwards if -- will  19 you give me a minute to look for those notes and  20 then I can --  21 Q. Sure.  22 A. Okay.  23 Q. As long as Ben doesn't count these as  24 lawyer minutes.  25 MR. DOWER: I mean, I --</p>	<p style="text-align: right;">336</p> <p>1 happened at the Engineering College?  2 A. I believe that's correct, yes.  3 Q. Okay.  4 MR. NOTZON: Are you  5 comfortable with that, Ben?  6 MR. DOWER: Yeah, I  7 mean, as -- as long as it's  8 within scope of the topic, you  9 know, then I'm -- I'm comfortable  10 with it, and I suppose if we  11 later have a fight about whether  12 one in particular line is part  13 of the topic or not, as long as  14 you agree that I'm not waiving  15 the ability to have that fight  16 when the time comes, I'm  17 comfortable doing it this way,  18 and that way we won't --  19 MR. NOTZON: That's  20 reasonable, yeah.  21 MR. DOWER: Yeah, okay.  22 MR. NOTZON: If I -- if  23 I -- if I misrepresent that it's a  24 college issue and you say, "Wait,  25 this is something else," yeah,</p>
<p style="text-align: right;">335</p> <p>1 I will see.  2 MR. NOTZON: Since --  3 since I'm not actually --  4 THE WITNESS: You're  5 not asking, right.  6 MR. DOWER: You know  7 what? I -- I have a timer running,  8 but I'm willing to early stop the  9 timer for this.  10 A. So I apologize. The -- the document  11 I'm thinking of I do not have immediate access  12 to, so maybe send that to you at a later date  13 through -- through Ben.  14 MR. DOWER: Yeah, and  15 if -- if we haven't already produced  16 it, we will produce it.  17 MR. NOTZON: Thanks.  18 BY MR. NOTZON:  19 Q. Okay. And then just two follow-ups.  20 The -- on the Corporate Rep side for the  21 promotion candidacy of Dr. Nikolova, speaking as  22 UT, do you adopt Dean Wood's testimony about the  23 issues that you engaged in as the Dean and that  24 the P&amp;T Committee that you testified about, are  25 those consistent with UT's position on what</p>	<p style="text-align: right;">337</p> <p>1 I'm okay with that.  2 MR. DOWER: And --  3 and -- and it should be -- you  4 know, and I'm not saying  5 misrepresent. There could be a  6 reasonable difference of opinion,  7 but either way, as long as you  8 agree that we're not waiving the  9 objections if we have that fight  10 later, it's fine with me.  11 MR. NOTZON: Absolutely.  12 Okay.  13 BY MR. NOTZON:  14 Q. And the follow-up with the -- the  15 testifying as UT on the salaries, I wanted to  16 ask -- so we've already -- I've already asked you  17 some questions about salaries with those first-  18 year Professors.  19 Do you adopt those as UT, as well?  20 A. As UT, I -- you probably would like  21 a -- I believe you have a spreadsheet.  22 THE WITNESS: Ben, do  23 they have the spreadsheet of  24 salaries?  25 MR. DOWER: Yeah.</p>

<p style="text-align: right;">338</p> <p>1 A. So you have the spreadsheet of 2 salaries. I -- I believe that combined with my 3 testimony is correct.</p> <p>4 MR. NOTZON: Okay. Let 5 me -- let me -- let's go ahead and 6 make that an exhibit. And that -- 7 where is that? I think -- well, 8 I --</p> <p>9 MR. DOWER: Well, you 10 know what, Robert? You've got 11 the spreadsheet. When the time 12 comes, the spreadsheet is what 13 it is, and we produced it to 14 you.</p> <p>15 MR. NOTZON: Okay. 16 All right.</p> <p>17 BY MR. NOTZON: 18 Q. So you adopt -- you'll -- and -- and 19 that --</p> <p>20 MR. NOTZON: That 21 spreadsheet is not identified here. 22 That's the problem I'm having.</p> <p>23 MR. DOWER: Okay. 24 A. You know what? I just found it. 25 BY MR. NOTZON:</p>	<p style="text-align: right;">340</p> <p>1 MR. NOTZON: That's 2 correct.</p> <p>3 THE COURT REPORTER: Okay. 4 (Discussion held off the record.)</p> <p>5 MR. NOTZON: Can you -- 6 all right. Let's go off the 7 record real quick.</p> <p>8 THE COURT REPORTER: We're 9 going off the record at 6:40 p.m. 10 (Recess held from 6:40 p.m. to 6:42 p.m.)</p> <p>11 THE COURT REPORTER: Okay. 12 We're going back on the record at 13 6:42 p.m.</p> <p>14 BY MR. NOTZON: 15 Q. Okay. So Dean Wood, as UT, do you 16 have a reason why Dr. Nikolova is paid less than 17 everybody except for one Assistant Professor? 18 A. As UT, this is based on a 19 recommendation from the Department Chair, based 20 on evaluations of faculty members.</p> <p>21 Q. So -- 22 A. So -- I'm sorry. Let me -- let me 23 provide a little more clarification for you.</p> <p>24 Q. I'm asking UT, and if UT is telling 25 my I've got to talk to somebody else, --</p>
<p style="text-align: right;">339</p> <p>1 Q. Okay. 2 A. So why don't I share it, if that's 3 okay.</p> <p>4 Q. That -- that would be perfect. 5 A. Okay.</p> <p>6 Q. And then I just wanted to ask one 7 follow-up question with that.</p> <p>8 A. Okay. Hold on a second. Now I -- 9 now I've lost the folder I was putting things in. 10 I apologize.</p> <p>11 Q. No problem.</p> <p>12 MR. DOWER: I heard a 13 Judge say once, "The lawyer 14 saying they've only got one 15 question left is like the one 16 potato chip. It's never 17 literally one."</p> <p>18 MR. NOTZON: One 19 potato's worth of potato chips.</p> <p>20 MR. DOWER: Oh, yeah. 21 There you go. 22 (Exhibit 11 marked for identification.)</p> <p>23 THE COURT REPORTER: And 24 this is going to be Exhibit 11; is 25 that correct?</p>	<p style="text-align: right;">341</p> <p>1 A. No, no. What I'm saying is within 2 the Cockrell School of Engineering we have a 3 process where the Department Chair makes a 4 recommendation, then it gets reviewed by the Dean 5 and the Associate Dean of Academic Affairs.</p> <p>6 There's an iteration, and then that 7 sets the salary. And so that is -- that was the 8 recommendation that came out of the -- that 9 process.</p> <p>10 Q. So would it be accurate that -- that 11 the -- the Dean or the Dean's Office didn't 12 modify what the Department sent up to them? 13 A. I don't have the act -- the final 14 version, but they certainly did not -- they did 15 not make an additional adjustment.</p> <p>16 Q. So if I need to know the exact 17 reasons why the pay salary is what it is 18 currently compared to everybody else, I'd have to 19 talk to the Department?</p> <p>20 A. I'm sorry, I don't think -- I'm not 21 sure that we have an -- an actual documentation 22 for that. Hold on. I'm going to go back to the 23 other -- whoops, I have the wrong one.</p> <p>24 The other spreadsheet that we were 25 talking about, which was Exhibit 10, so in -- in</p>

<p>342</p> <p>1 this particular case --</p> <p>2 Q. Exhibit 10 now?</p> <p>3 A. Exhibit 10, I'm looking at the</p> <p>4 academic year which would have 2018/19 which</p> <p>5 would impact the raises for 2019/20. Dr.</p> <p>6 Nikolova received a review of "meets</p> <p>7 expectations" from both the Department Chair and</p> <p>8 the Committee.</p> <p>9 The merit raise goal was 3 percent,</p> <p>10 and she was given a merit raise of 3 percent, so</p> <p>11 she was given the merit raise goal. And that was</p> <p>12 a typical raise in the Department for someone who</p> <p>13 "meets expectations."</p> <p>14 Q. So -- but that doesn't answer the</p> <p>15 question as to why she's lower than everybody</p> <p>16 except one Assistant Professor.</p> <p>17 A. Right. So in -- in some cases --</p> <p>18 Q. That's -- that's what I'm -- that's</p> <p>19 my question.</p> <p>20 A. Right. So the -- the -- the salaries</p> <p>21 in the Department have been bumped up because</p> <p>22 of -- because of the competition from the high</p> <p>23 tech industry. As I mentioned before, they give</p> <p>24 signing bonuses and they give stock options.</p> <p>25 And it appears that other people's</p>	<p>344</p> <p>1 BY MR. DOWER:</p> <p>2 Q. I wasn't going to ask anything, but</p> <p>3 now -- now I do want to make sure that what Dean</p> <p>4 Wood's said is also properly incorporated into</p> <p>5 what UT says on the topic of salary, which is</p> <p>6 just that when Dean Wood was testifying, she also</p> <p>7 had an observation about an expected merit bump</p> <p>8 that didn't come to pass because of COVID, and so</p> <p>9 I guess I'm asking UT as the Corporate Rep to</p> <p>10 clarify: Did that affect the 2019 to 2020 year,</p> <p>11 or was that after that?</p> <p>12 A. That would have been after that.</p> <p>13 That would have been the 2020/2021 academic year.</p> <p>14 MR. DOWER: Okay, okay.</p> <p>15 In that case, pass the witness.</p> <p>16 MR. NOTZON: I'll pass.</p> <p>17 MR. SCHMIDT: Okay. We</p> <p>18 are done. Thank you.</p> <p>19 THE COURT REPORTER: We're</p> <p>20 going off -- we're going off the</p> <p>21 record at 6:48 p.m.</p> <p>22 (Deposition concluded at 6:48 p.m.)</p> <p>23</p> <p>24</p> <p>25</p>
<p>343</p> <p>1 salaries were kept ahead of the incoming people,</p> <p>2 and Dr. Nikolova's is slightly behind the</p> <p>3 incoming people.</p> <p>4 Q. Okay. So everybody that is higher</p> <p>5 than her is a high tech beneficiary?</p> <p>6 A. They are benefitting from that,</p> <p>7 correct.</p> <p>8 Q. Okay. And -- and Dr. Nikolova and</p> <p>9 the other person below her is not benefitting</p> <p>10 from that?</p> <p>11 A. That is my understanding of the</p> <p>12 salary structure.</p> <p>13 Q. And also would it -- would it --</p> <p>14 A. The -- the UT representation of the</p> <p>15 salary structure, right.</p> <p>16 Q. Okay. It would be accurate that any</p> <p>17 pre-existing disparity between Dr. Nikolova and</p> <p>18 the other people prior to the hiring of the high</p> <p>19 tech beneficiaries, let's call them, would --</p> <p>20 would remain in place?</p> <p>21 A. In -- in this case, it did. I --</p> <p>22 yeah, in this case, it did.</p> <p>23 MR. NOTZON: That's it.</p> <p>24 Thank you. Pass the witness.</p> <p>25 EXAMINATION</p>	<p>345</p> <p>1 CHANGES AND SIGNATURE</p> <p>2 SHARON L. WOOD, Ph.D. MARCH 18, 2021</p> <p>3 PAGE LINE CHANGE REASON</p> <p>4 _____</p> <p>5 _____</p> <p>6 _____</p> <p>7 _____</p> <p>8 _____</p> <p>9 _____</p> <p>10 _____</p> <p>11 _____</p> <p>12 _____</p> <p>13 _____</p> <p>14 _____</p> <p>15 _____</p> <p>16 _____</p> <p>17 _____</p> <p>18 _____</p> <p>19 _____</p> <p>20 _____</p> <p>21 _____</p> <p>22 _____</p> <p>23 _____</p> <p>24 _____</p> <p>25 _____</p>

<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>SHARON L. WOOD, Ph.D.</p> <p>5</p> <p>6 STATE OF _____ )</p> <p>7 COUNTY OF _____ )</p> <p>8</p> <p>9 Subscribed and sworn to before me by the</p> <p>10 said witness, SHARON L. WOOD, Ph.D., on this the</p> <p>11 _____ day of _____, 2021,</p> <p>12 subject to the aforementioned corrections/</p> <p>13 changes, if any:</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>Notary Public in and for</p> <p>19 the State of _____</p> <p>20</p> <p>21 My Commission Expires: _____</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>346</p> <p>1 Defendant, University of Texas At Austin,</p> <p>2 ____XX____ did _____ did not request to review</p> <p>3 the transcript.</p> <p>4 I declare under penalty of perjury under</p> <p>5 the laws of Texas that the foregoing is true and</p> <p>6 correct.</p> <p>7 Dated this 6th day of April, 2021.</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12 TOMMI RUTLEDGE GRAY, Texas CSR 1693</p> <p>13 Expiration Date: 10/31/21</p> <p>14 Firm Registration #528</p> <p>15 INTEGRITY LEGAL SUPPORT SOLUTIONS</p> <p>16 P.O. Box 245</p> <p>17 Manchaca, Texas 78652</p> <p>18 Telephone - 512.320.8690</p> <p>19 Email - info@integrity-texas.com</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24 ROBERT NOTZON, ESQ.: 07:12</p> <p>25 BENJAMIN LINDBERG DOWER, ESQ.: 00:01</p> <p>348</p>
<p>347</p> <p>1 REPORTER'S CERTIFICATE</p> <p>2 I, TOMMI RUTLEDGE GRAY, TEXAS CSR NO.</p> <p>3 1693, Certified Shorthand Reporter, Registered</p> <p>4 Professional Reporter, and Certified Realtime</p> <p>5 Reporter, certify:</p> <p>6 That pursuant to the 36th Emergency Order</p> <p>7 Regarding the COVID-19 State of Disaster,</p> <p>8 Paragraphs 3.c. and 3.d, the foregoing</p> <p>9 proceedings were taken remotely before me via</p> <p>10 Zoom videoconferencing, at which time the witness</p> <p>11 was remotely put under oath by me;</p> <p>12 That the testimony of the witness, the</p> <p>13 questions propounded, and all objections and</p> <p>14 statements made at the time of the examination</p> <p>15 were recorded remotely stenographically by me and</p> <p>16 were thereafter transcribed;</p> <p>17 That the foregoing 346 pages are a true</p> <p>18 and correct transcript of my shorthand notes so</p> <p>19 taken.</p> <p>20 I further certify that I am not a relative</p> <p>21 or employee of any attorney of the parties, nor</p> <p>22 financially interested in the action.</p> <p>23 I further certify that before the</p> <p>24 completion of the deposition, the Deponent,</p> <p>25 SHARON L. WOOD, Ph.D., and/or Counsel for the</p>	

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# EXHIBIT 22

## GENERAL GUIDELINES FOR PROMOTION AND TENURE OF ALL FACULTY RANKS EXCLUDING THE MEDICAL SCHOOL 2018-19 ACADEMIC YEAR

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Exhibit  
Gregory Fenves

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05/27/2021 DC

**GENERAL GUIDELINES 2018-19****Section A Overview****A.1 INTRODUCTION**

The goal of the promotion process is to provide a thorough and objective review of the substance and merits of each faculty member's case following customary methods. The review must be sufficient in its depth and character to support action in the best interests of the university, whatever the decision reached. To accomplish this, the evaluation process comprises an independent review at multiple levels: budget council/executive committee, department chair, college/school, dean, and central administration. The recommendations at each level reflect the professional judgment of each of those involved, with the president making the final decision.

The following General Guidelines describe the promotion process for tenured, tenure-track and non-tenure-track candidates, and are provided to assist both candidates and academic units with preparation of supporting materials and management of candidate files for promotion. The dean may distribute additional written procedural guidelines and information for preparation of candidate dossiers in his or her college/school and will deliver one copy of any additional guidelines or information distributed to the candidates to the Provost's Office along with the dossiers from his or her college/school. It is recognized that variation in requirements is possible among disciplines and departments. Such variations are considered both appropriate and healthy. Candidates should check with their department chairs or, in non-departmentalized colleges/schools, with their dean regarding the requirements and practices in their area.

**A.2 AREAS OF CONTRIBUTION APPLICABLE TO ALL FACULTY:**

As described in the Handbook of Operating Procedures (HOP) 2-2160, recommendations for tenure and recommendations for promotion in rank of all faculty are to be based on excellence in performance pursuant to an evaluation of the faculty member's contribution in the following areas:

- Teaching at both undergraduate and graduate levels.
- Research, creative activities, and other scholarly effort.
- Academic advising, counseling, and other student services.
- Administrative and committee service to the department, college, and university and professional public service to the nation, state, and society.
- Other evidence of merit or recognition, such as fellowships, grants, and special honors.

**A.3 RECOMMENDATIONS FOR TENURE:**

- a. The granting of tenure has consequences of great magnitude and long life and must be considered especially carefully. Tenure should be awarded only when there is a clear case that the best interest of the university is served by doing so. In the review process, the candidate's record should be examined for:
  - Evidence that contributions of appropriate magnitude and distinction in teaching, research, and service have been made, AND
  - Evidence that such contributions can be sustained through an extended career with the university.

**GENERAL GUIDELINES 2018-19****b. Assistant to Associate Professor:**

A recommendation for promotion to associate professor normally is considered in the sixth year of the individual's service as assistant professor (or combined service as instructor and assistant professor). Cases considered before the sixth year in rank are accelerated and must be explained in the department chair's and dean's statements.

An assistant professor must be reviewed no later than the sixth year of the probationary period and be either promoted to associate professor with tenure or placed on terminal appointment for the next year. A year in which a faculty member has been on leave without pay or claimed an extension in accordance with HOP 2-2020 does not count toward the probationary period.

Candidates whose probationary period has been extended under HOP 2-2020 or due to leave without pay in accordance with university family and medical leave policies shall be evaluated as if the work were done in the normal period of service.

**c. Associate Professor or Professor Without Tenure:**

The tenure status of individuals appointed to the associate professor or professor ranks without tenure must be reviewed no later than the third year of probationary service. Associate professors without tenure may be considered either for tenure in the rank of associate professor or for tenure and promotion to full professor simultaneously.

**A.4 ASSOCIATE PROFESSORS (with tenure):**

Associate professors with tenure may be considered for promotion to professor during any year deemed appropriate by the budget council/executive committee and department chair. Promotion before six years in rank have elapsed is considered accelerated and must be explained.

Right of Consideration. As provided in HOP 2-2160: a faculty member in the rank of associate professor has the right to be considered for promotion to professor in his or her tenth year of service as an associate professor. To invoke this right of consideration, the associate professor must advise his or her department chair no later than February 1 of his or her ninth year of service of the desire to be considered for promotion to professor. The case shall be considered at all administrative levels, including the president. Should the associate professor not be promoted, he or she may be considered during any year thereafter at the discretion of the budget council/executive committee and department chair or may invoke his or her right to be considered during the end of the subsequent five years of service.

**A.5 INSTRUCTORS IN A PROBATIONARY STATUS:**

Instructors in their second or third year in rank who become eligible for promotion to assistant professor as a result of obtaining their Ph.D. must be forwarded for review at all levels. The dossiers should demonstrate satisfactory progress while in the rank of instructor. All instructors in their third year of probationary service require formal review regardless of whether they have received the Ph.D.

Instructors who complete the Ph.D. during the first year of academic service do not require review. Formal documentation that the degree has been awarded should be submitted to the Provost's Office and the title will be changed to assistant professor effective September 1 of the second year.

**A.6 NON-TENURE TRACK RANKS:**

Non-tenure track faculty members assist the institution in meeting a variety of critical needs related to the university's overall mission. Performance expectations for these faculty, however, are not as encompassing in scope as those for tenure-track faculty. Although all contributions and accomplishments of non-tenure track candidates should be evaluated where applicable, special emphasis is to be given to teaching performance and at least one other area of contribution for faculty in lecturer, clinical, and adjunct titles, and to research activity and other academic

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contributions for faculty in research professor titles.

a. Lecturer Titles

Recommendations for promotion of lecturer or senior lecturer may be considered in the sixth year (or later) of an individual's service in his or her current rank at the university. Cumulative service in rank may be either full time or part time. Recommendations for accelerated promotion must be explained and justified.

The principal role of faculty in the lecturer titles is providing instructional service that augments and complements that of the tenured and tenure-track faculty. Thus, exceptional teaching performance is expected and a well-documented record of teaching excellence is required for all such candidates for promotion. The budget council statement/executive committee for each department or academic unit should describe the local rating criteria and service norms for teaching and demonstrate that the candidate's level of teaching service is above the departmental average. In addition, an adequately documented record of significant accomplishment in at least one of the other areas of contribution consistent with the terms of employment is required for promotion to senior lecturer.

The title of distinguished senior lecturer is reserved for individuals who, in addition to teaching excellence, have a sustained record of significant accomplishment adequately documented in at least one of the other areas of contribution consistent with the terms of employment.

b. Clinical and Adjunct Titles

Recommendations for promotion of adjunct assistant professor, adjunct associate professor, clinical instructor, clinical assistant professor, clinical associate professor, instructor of clinical nursing, assistant professor of clinical nursing, and associate professor of clinical nursing, may be considered in the sixth year (or later) of an individual's service in his or her current rank at the university. Cumulative service in rank may be either full time or part time. Recommendations for accelerated promotion must be explained and justified.

The principal role of faculty in the clinical and adjunct titles is providing instructional service that augments and complements that of the tenured and tenure-track faculty. Thus, exceptional teaching performance is expected and a well-documented record of teaching excellence is required for all such candidates for promotion. The budget council statement should describe the local rating criteria and service norms for teaching and demonstrate that the candidate's level of teaching service is above the departmental average. In addition, a record of accomplishment in at least one of the other areas of contribution consistent with the terms of employment is required and must be documented in appropriate ways.

c. Research Professor Titles

Recommendations for promotion of research assistant and research associate professors may be considered in the sixth year (or later) of an individual's service in his or her current rank at the university. Cumulative service in rank may be either full time or part time. Recommendations for accelerated promotion must be explained and justified.

The contribution of faculty appointed as research assistant and research associate professors is principally in the area of research. A well-documented record of research excellence is required. In addition, a record of active contribution to the academic enterprise in other ways is required and must be adequately documented.

d. Instruction and Practice Titles

Effective September 1, 2018, UT Austin will begin using two new faculty title series; 1.) assistant, associate, and full professor of instruction and 2.) assistant, associate, and full professor of practice. For the 2018-19 promotion review cycle, faculty members laterally moved into one of these new series effective September 1, 2018, will be evaluated for promotion using the criteria of their previous title.



**GENERAL GUIDELINES 2018-19****Section B Roles and Responsibilities****B.1 PROCEDURAL RESPONSIBILITIES OF DEPARTMENT CHAIR OR DEAN**

Department chairs, or deans in a non-departmentalized college, are responsible for preparing the candidate's file for review and should familiarize themselves with these Guidelines and any other written guidelines provided by the department and/or college. In the spring semester before a faculty member is to be considered for promotion, the department chair, dean, or their designee shall meet with the candidates to explain the process and advise them to become familiar with the applicable guidelines, discuss relative responsibilities for compiling dossier information, and discuss candidate access to materials as detailed in section B.2.

- a. Selecting Referees. The department is responsible for developing a list of peer reviewers with input from the candidate (see Section C.8.d). The reviewers should be from peer institutions/programs and must be at arm's length from the candidate (e.g., not former dissertation chairs/advisors, postdoctoral mentors, coauthors, and/or collaborators). Prior to sending out the solicitation letter to the referees, the chair or dean shall ask the candidate to review the list of individuals to be contacted. After considering concerns that may be expressed by the candidate, the department has final say over reviewer selection. The candidate may place a statement in the file to document any concerns he or she may have about reviewer selection (see Additional Statements, section C.9). The dean (or designee) must approve the final list of letter writers before the solicitation letter is sent.
- b. Review of Materials. Before the departmental committee considers a case, the chair or dean shall ask the candidate to check the materials in the promotion dossier. The purpose of this review is to ensure that all candidate materials are enclosed in the dossier as submitted by the candidate. If the candidate believes that the file is incomplete or includes inappropriate material, or if the candidate has any other objection to the process, the chair, dean, or their designee shall either correct the problem or include a statement in the file about the problem and why it was not addressed as the candidate requested. The candidate may also place a statement in the file about the problem or other aspects of the case.
- c. Additions to the Dossier. All factual information relied upon in the promotion and tenure decision process shall be included in written form in the promotion dossier. All information in the curriculum vitae is considered to be included in the dossier by reference. When such information is added to the promotion dossier after the department chair has asked the candidate to check the materials in the promotion dossier, it shall be date stamped and placed in a separate folder labeled Additional Statements (see section C.9). The candidate shall be informed of its inclusion and permitted an opportunity to place a statement in the file addressing this addition. All administrative parties (budget council/executive committee, department chair, college/school advisory committee, ORU director or dean) having already reviewed the dossier will also be notified of the inclusion of the additional materials. Notification is not necessary for the addition of required statements to the promotion dossier during the regular review process by a budget council/executive committee, department chair, ORU director or dean.
- d. Issues Beyond the Scope of the Promotion and Tenure Process. In rare cases, a tenure or promotion review may raise issues that the tenure and promotion process is not well suited to resolve. For example, an accusation about academic integrity may be relevant to a decision about tenure or promotion, but may be difficult to resolve adequately in the tenure and promotion process. In such cases, the chair or dean, in consultation with the provost and president, may delay the tenure and promotion process until the matter is resolved by an appropriate body separate from the tenure and promotion process.

**B.2 CANDIDATE'S RIGHTS AND RESPONSIBILITIES**

- a. Dossier Preparation. Candidates should familiarize themselves with these Guidelines and any other written guidelines provided by the department and/or college with respect to the promotion process and dossier assembly. Consult with the department chair (or designee) about the

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relative responsibilities for compiling the information.

- b. Supplemental Materials. Candidates have the discretion to include any materials that they believe are relevant to the promotion or tenure decision (see section C.10).
- c. Review Referee List. The candidate shall provide the chair/budget council/executive committee with a list of recommended individuals to provide peer review letters (see section C.8.d). The candidate shall review the list of individuals selected prior to the chair or dean sending out the solicitation letter. Concerns about any reviewers on the list may be expressed to the department chair, but the department has final say over reviewer selection. The candidate may place a statement in the file to document any concerns he or she may have about reviewer selection (see Additional Statements, section C.9).
- d. Access to Promotion File Materials. Under state law, the university may not keep the contents of the promotion file confidential. A candidate may request and be allowed to inspect any material in his/her promotion dossier at any time during the promotion process.
  - i. Review of Materials. The candidate should check the materials in the promotion dossier before the departmental committee considers a case. The purpose of this review is to ensure that all candidate materials are enclosed in the dossier as submitted by the candidate. If the candidate believes that the file is incomplete or includes inappropriate material, or if the candidate has any other objection to the process, the chair, dean, or their designee shall either correct the problem or include a statement in the file about the problem and why it was not addressed as the candidate requested. The candidate may also place a statement in the file about the problem or other aspects of the case (see Additional Statements, section C.9).
  - ii. Informal Access. At any point in the process informal access to the promotion file is available to a candidate upon request as soon as is feasible, but not later than three (3) business days. Requests for informal access are to be addressed to the department chair, dean, or provost, as appropriate, and no formal open records request is required. Candidates shall be allowed to inspect/review their promotion files at each level with adequate supervision. Copying or photographing materials is not permitted, and no materials may be removed from the promotion files.
  - iii. Formal Access. If the candidate wishes to obtain copies of any materials in the file, the candidate must make a request in writing to the Office of the Executive Vice President and Provost, which may be sent via email to [evpp.aps@utlists.utexas.edu](mailto:evpp.aps@utlists.utexas.edu). Candidates should call (512) 232-3323 with any questions.

**B.3 ASSESSMENTS AND RECOMMENDATIONS**

- a. Conflict of Interest. A budget council/executive committee or college/school advisory committee member with a potential or real conflict of interest related to a candidate (e.g. spouse, Ph.D. advisor, etc.) is responsible for absenting him/herself from the room during the review and discussion of, and vote on, that candidate.
- b. Non-departmentalized College/School
  - 1) Budget Council/Executive Committee Assessment. The budget council or executive committee shall assess the record and prepare a separate statement for each area of contribution listed in section A.2 that is applicable to the candidate. Consideration should be given to the impact of a recommendation to promote, in particular how it would strengthen the college/school. Areas of distinction and potential weaknesses in the record should be identified, as well as the standards of the field. All votes (i.e., for, against, and abstentions) are to be recorded on the Recommendation for Change in Academic Rank/Status form

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along with the number ineligible to vote and absent. In keeping with the tradition of academic integrity, the vote is taken after the evidence is compiled, not before, and 'follow-on' voting to achieve unanimity is not endorsed. As stipulated in HOP 2-1310, associate and assistant professors are not eligible to vote on any matters affecting promotion from or continued appointment in their own rank or higher ranks, including the decision whether to develop a case for consideration (or reconsideration).

- 2) Dean's Assessment and Recommendation. The dean is to be present for the budget council/executive committee discussion of each case but does not vote. The dean is to provide his or her own assessment of the candidate's teaching, research/scholarly activity, and service, as applicable, and has the responsibility to describe fairly the rationale for the budget council/executive committee's recommendation, including a summary of the views of both opponents and proponents. Characterization of these discussions is neither to identify colleagues by name, nor otherwise impair the voting process. If the candidate is being reviewed for tenure, the dean must reflect on the mid-probationary review that must be included in the dossier. (If the written review is not included or available, that must be addressed in the dean's statement.) An effort should be made to explain negative votes and abstentions. The President's Committee will interpret unexplained abstentions as weak negative votes. The dean's statement should identify the candidate's strengths and weaknesses, provide context as needed, and address whether and how the candidate's promotion would improve the quality of the college/school. The signed statement is to accompany the dossier to the next level.

c. Departmentalized College/School:

- 1) Budget Council/Executive Committee Assessment. The budget council or executive committee shall assess the record and prepare a separate statement for each area of contribution listed in section A.2 that is applicable to the candidate. Consideration should be given to the impact of a recommendation to promote, in particular how it would strengthen the department. Areas of distinction and potential weaknesses in the record should be identified, as well as the standards of the field. All votes (i.e., for, against, and abstentions) are to be recorded on the Recommendation for Change in Academic Rank/Status form along with the number ineligible to vote and absent. In keeping with the tradition of academic integrity, the vote is taken after the evidence is compiled, not before, and 'follow-on' voting to achieve unanimity is not endorsed. As stipulated in HOP 2-1310, associate and assistant professors are not eligible to vote on any matters affecting promotion from or continued appointment in their own rank or higher ranks, including the decision whether to develop a case for consideration (or reconsideration).
- 2) Department Chair's Assessment and Recommendation. The department chair is to be present for the budget council/executive committee discussion of each case but does not vote. The chair is to provide his or her own assessment of the candidate's teaching, research/scholarly activity, and service and has the responsibility to describe fairly the rationale for the budget council/executive committee's recommendation, including a summary of the views of both opponents and proponents. Characterization of these discussions is neither to identify colleagues by name, nor otherwise impair the voting process. If the candidate is being reviewed for tenure, the department chair must reflect on the mid-probationary review that must be included in the dossier. (If the written review is not included or available, that must be addressed in the department chair's statement.) An effort should be made to explain negative votes and abstentions. The President's Committee will interpret unexplained abstentions as weak negative votes. The department chair's statement should identify the candidate's strengths and weaknesses, provide context as needed, and address whether and how the candidate's promotion would improve the quality of the department. The signed statement is to accompany the dossier to the next level.
- 3) College Advisory Committee. The college advisory committee members should review dossiers before they meet, determine if any required materials are missing or incorrectly prepared, and, as necessary, notify the departments and candidates giving them a

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reasonable opportunity to address any problems or concerns before the meeting to vote on the case. All votes (i.e., for, against, and abstentions) are to be recorded on the Recommendation for Change in Academic Rank/Status form along with the number ineligible to vote and absent.

- 4) Dean's Assessment. The dean is to be present for the discussions of the college advisory committee but does not vote. The dean is to provide his or her own assessment of the candidate's teaching, research/scholarly activity, and service and has the responsibility to describe fairly the rationale for the college advisory committee's recommendation, including a summary of the views of both opponents and proponents. Characterization of these discussions is neither to identify colleagues by name, nor otherwise impair the voting process. An effort should be made to explain negative votes and abstentions. The President's Committee will interpret unexplained abstentions as weak negative votes. The dean's statement should identify the candidate's strengths and weaknesses, provide context as needed, and address whether and how the candidate's promotion would advance the quality of the department and college/school. The signed statement is to accompany the dossier to the next level.

d. Other Affiliations:

- 1) Joint Positions. For faculty members with joint positions, each department is to submit forms and assessments and vote on the case, cross-referencing the other position. The departments involved are to share materials collected in support of the case. Where only one college is involved, the dossier is consolidated, with one college advisory committee vote and one dean's statement. Where two or more colleges/schools are involved, forms must be reviewed and acted upon by all deans concerned.
- 2) Courtesy Positions. Where a faculty member holds a courtesy position and has significant involvement in another department or center, that department chair or director is to provide a letter commenting on the involvement and contributions of the candidate to the programs of the department or center. The letter is included in the dossier following the dean's and the chair's statements.
- 3) Academic/Research Center, Laboratory, Bureau or Institute. If a faculty member is significantly engaged in the unit's activities but does not hold a courtesy position, the director may comment on the candidate's contributions to the unit. The commentary is included in the dossier following the dean's and chair's statements.
- 4) Research Faculty. For faculty in the research assistant and research associate professor titles, the director of the bureau, academic/research center, laboratory, or institute where the faculty member holds a position must provide an assessment of the candidate's research performance and other academic and professional contributions. The director's statement is to be provided to the department chair (dean in non-departmentalized colleges/schools) for consideration by the budget council/executive committee in its deliberations and a copy included in the dossier along with the statements of the department chair and dean.

e. Central Administration

- 1) Presidential Conferences. The dossiers will be discussed with the President's Review Committee at scheduled times in January and February. Each dean will attend the conference for his or her school or college. In particularly difficult cases, in order to make a determination in the best interest of the university, the president may request that formal assessments of a candidate's contributions and achievements be sought from additional experts in the field, or that key stakeholders be invited to address questions not resolved by the record presented or in the conference with the dean. See section D for announcement of decisions.

**GENERAL GUIDELINES 2018-19****Section C      Dossier Assembly (See Appendix A for a summary)**

To facilitate the review process and to ensure completeness and consistency, the dossier is to be assembled in the order and with the supporting documentation specified in this section.

**C.1      RECOMMENDATIONS**

This section includes the supporting documents related to departmental and college recommendations as described in section B.3. They are to be placed in the following order:

- Recommendation for Change in Academic Rank/Status form
- Dean's statement
- Department chair's statement
- Copy of the mid-probationary review (only applicable for tenure candidates)
- Joint department chair's statement (if applicable)
- Courtesy department chair or center director's statement(s) (if applicable)
- Other academic program and/or research center director's statement(s) (if applicable)

**C.2      CURRICULUM VITAE AND OTHER INFORMATION**

This section includes the supporting documentation related to the curriculum vitae.

a. Curriculum Vitae. The candidate's dossier is to include a curriculum vitae (as opposed to a continuous faculty record), containing, among other things, a list of:

- degrees, fields of study, and dates awarded
- professional registrations, licensures, certifications (as applicable)
- all professional appointments
- complete publications record with:
  - publications and other evidence of scholarship/creativity listed according to the kind of entry (e.g., books, chapters, articles, reports, proceedings, and other materials)
  - refereed works identified as such
  - the names of the co-authors listed in the order in which they appear in the publication
  - clear designation of the faculty member's role if it is not author (e.g., editor, compiler, translator, or some other role)
  - works that are in preparation, submitted, under review, accepted, under contract or in press clearly labeled accordingly (for works under contract and/or in press, include tentative publication date)
  - beginning and ending page numbers for articles and total number of pages for books
- scholarly presentations
- research contracts/grants/gifts and proposals submitted with:
  - sponsor name
  - project title
  - project/funding period
  - co-PIs and relative effort of each, where appropriate
  - funding amounts (by academic year and amount under candidate's supervision)
  - for proposals, an indication of the status of each (e.g., submitted, approved, funding pending)
- patents issued (as applicable)
- all advising and related student service
- administrative and committee service, and academic-related professional and public service
- other evidence of merit or recognition

Do not duplicate sections from the CV in other parts of the dossier unless specified in these guidelines.



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- b. Complete list of publications and scholarly/creative works. Provide a separate document, using the template provided by the Provost's Office, listing all publications and scholarly/creative work published (or in an equivalent status) in reverse chronological order.

All candidates for tenure must list their dissertation/thesis title and dissertation/thesis advisor's name on the document (if applicable).

Works should be grouped into four sections as applicable and co-authors who were in a student or other trainee status at the time of submission should be noted in *italics*:

1. Works published (or in equivalent status), in press, accepted, or under contract while in current rank at UT Austin
2. Works published (or in equivalent status) while in current rank at other institutions
3. Works published (or in equivalent status) while in previous ranks at UT Austin
4. Works published (or in equivalent status) while in previous ranks at other institutions

Co-authored works listed in section 1 should indicate who the co-authors are and their status at the time of submission (e.g., current or former students, peers or faculty colleagues at UT Austin or at another institution). Include a brief qualitative statement of contribution for each co-authored work.

Forthcoming works that are in press, accepted, or under contract should be listed in section 1 and clearly labeled. Each forthcoming work should be supported by clearly labeled letters of acceptance or copies of contracts from editors, publishing houses, producers, galleries, or other conduits for scholarly and/or creative work. Include reviews, where available.

### C.3 TEACHING

- a. Budget Council/Executive Committee Statement. The budget council/executive committee must provide a separate document assessing teaching performance that includes both the signatures and typed names of those responsible for preparing it. The statement is required for all tenured, tenure-track, lecturer, clinical and adjunct faculty, as well as research professor faculty that have been assigned a teaching role. The document is to provide an explanation of the evaluation procedures and measures used and the assessment should:

- discuss both student course/instructor evaluations and peer observation reports
- discuss the candidate's willingness to teach courses for which there is strong student demand
- describe the balance between undergraduate and graduate teaching, as applicable
- discuss relevant evidence of merit or recognition for teaching excellence
- describe and provide documentation of organized service learning instruction, as applicable
- reflect familiarity with the teaching portfolio
- describe participation on graduate committees
- describe supervision of postdoctoral students, as applicable
- consider any special circumstances concerning the faculty member's teaching performance, including any innovative contributions described (e.g., innovative teaching methods, use of instructional technology, interdisciplinary teaching, innovative curriculum development activities, supervision of undergraduate special project courses)

In addition to the budget council/executive committee assessment, the teaching section of each candidate's dossier must contain the following supporting documentation:

- b. Teaching Statement. The candidate must provide in four (4) pages or less a personal statement of teaching philosophy, educational goals for the courses taught and how they were

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accomplished, description of any innovations or unique methods, specific areas of demonstrated improvement, and other material in a manner that will provide colleagues with a context for interpreting other evaluative information.

- c. Course Rating Averages. Each department or college should prepare a report of course rating averages using the Provost's Office template. Classes should be grouped by course and listed in chronological order. The class size, number of Course-Instructor Survey (CIS) responses, instructor rating, and course rating should be provided for each class taught.
- d. Candidate's Instructional Activities. Each department or college/school will need to download a Summary of Recent Course-Instructor Survey Results through the Spring 2018 term for each faculty member being considered for promotion as reported by the dean. This download is available in the university's Faculty Information System. The summary will be based on the basic and expanded CIS forms and will include the applicable period for each candidate.

Candidates for tenure and instructors to assistant:	Entire probationary period
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All other candidates:	Previous three years (i.e., 2015-16 through 2017-18)
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The deans and department chairs should download this information in early June and in early September, and use the summary to comply with this requirement, where possible. This report can be used to complete the Course Rating Averages chart (see section C.3.c).

If the dean chooses not to use the downloaded summary, or candidates did not use the basic or expanded form, then the dean is responsible for developing a format for college-wide use.

- e. Peer Classroom Observation Reports. These reports are broad observations of the candidate's effectiveness as a teacher at the graduate and/or undergraduate levels by those faculty members conducting the in-class observations. The reports should cover such elements as presentation, course content, organization, clarity of written materials, rigor and fairness of written examinations, appropriateness of methodology, and student outcomes.

Peer observations of classes should be carried out repeatedly in the evaluation period of the candidate, ideally in the same class over the course of multiple semesters. Particular attention should be paid to giving constructive advice during early observations, then following up with specific progress reports in subsequent semesters observing the same class. Include in the dossier all reports of in-class observations conducted while in rank. Observation reports for the fall semester during which the candidate for promotion is expected to be reviewed (i.e., Fall 2018) should not be used unless absolutely necessary (i.e., this is the only semester for which the observation is possible). The budget council/executive committee is to consider the peer observations in their assessment of the candidate's teaching service record. Each peer observation report is to include:

- number and title of course observed
- date of report
- date of classroom observation
- description of methods by which instructor engages students in learning
- date on which the observation was discussed with the candidate
- constructive advice
- any specific improvement from previous peer observation reports
- name and signature of observer(s)

UT Austin's Faculty Innovation Center has resources regarding Peer Review of Teaching:  
<https://facultyinnovate.utexas.edu/opportunities/prof-dev/peer-observation>

- f. Report of graduate student supervision as provided by the Graduate School via the Committee



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Report on Masters and Doctoral Theses. The Provost's Office will distribute this report to the deans and department chairs in early September for each faculty member being considered for promotion as reported by the dean. If none were supervised, insert separate page with the statement, "No graduate students were supervised."

- g. Postdoctoral Fellows Supervised. Provide a list of postdoctoral fellows supervised with name, institution awarding the Ph.D., and date conferred. If none were supervised, insert separate page with the statement, "No postdoctoral fellows were supervised."
- h. Originals of all Students' Written Comments for the last three years (i.e., 2015-16 through 2017-18) are to be included with Supplemental Materials (See section C.10). The Course Instructor Survey Summary evaluation page should be included as a coversheet for each class. Candidates who have taught at other institutions during the last three years may submit evaluations from those courses.
- i. Teaching Portfolio. The candidate (including research faculty whose assigned duties include teaching) is to develop an extensive teaching portfolio for department or college/school review. The portfolio does not accompany the dossier beyond the dean's office.

For information on compiling a teaching portfolio, candidates for promotion should consult with their department chairs and dean's office. The following items are examples of materials appropriate for a portfolio: syllabi, handouts, problem sets, and other written materials developed for courses; computer-assisted instructional aids; examinations.

UT Austin's Faculty Innovation Center has resources available on their website at: <https://facultyinnovate.utexas.edu/opportunities/prof-dev/portfolio>

**C.4 RESEARCH/SCHOLARSHIP/CREATIVITY**

- a. Budget Council/Executive Committee Statement. The budget council/executive committee is to summarize research/scholarly/creative contributions in a separate document that includes the typed names and signatures of the members responsible for preparing the statement. The statement is required for all tenured, tenure-track, and research professor faculty as well as faculty in lecturer, clinical and adjunct titles for whom this is one of the areas of performance excellence selected for review. The summary statement should:
  - describe which area(s) of the field is the focus of the faculty member's work
  - identify and comment on those items that are considered to be of major significance or outstanding quality while in rank at UT Austin or since the most recent promotion, as appropriate.
  - describe how the budget council/executive committee evaluators conducted their review, including the standards used
  - be clear about the norms of the field and indicate, for example, the quality of the outlets for a candidate's work (i.e., journals, presses, art galleries, performance venues, etc.)
  - explain the norms of co-authorship, where applicable, and whether a peer review was involved
  - explain, where applicable, reasons for counting non-traditional outlets favorably for research/scholarly/creative activity, (e.g., textbooks, continuing education presentations, governmental or industrial service, etc.)
  - describe how the candidate's research fits within the context of their field and explain it in a way that is accessible to those outside of their field
  - for tenure-track candidates, assess the level of independent scholarly activity while at UT Austin
  - for tenure-track candidates with a book publication, indicate whether the book is derived from the doctoral dissertation, and if so, to what extent it has been expanded or modified

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- b. Scholarly Works. Copies of scholarly works must accompany the dossier as far as the Dean's Office. The dean is responsible for ensuring that the scholarly works correspond to the vitae.
- Candidates being considered for tenure include all scholarly works.
  - Other candidates include all scholarly works produced while in rank.
- c. Five Most Significant Works. The internal and external review may concentrate on a smaller set of publications that are considered to be the most significant. The candidate is to make the selection of the five most significant works. Tenured associate professor candidates for promotion to full professor should select the five most significant works while in their current rank. Include a listing of the five works in the dossier.
- One set of the five most significant works should accompany the dossier as far as the central administration. Include reviews, when available. Place them with the other supplemental materials (see section C.9), not in the dossier.
- d. Research Statement. The candidate must provide in four (4) pages or less a statement of accomplishments, goals, and future plans in the area of research, scholarship, and creativity. Candidates for promotion to the rank of associate professor should focus primarily on accomplishments since first appointment as assistant professor (which may include work as an assistant professor at another institution), and are encouraged to articulate a plan for sustaining their program. All other candidates should focus primarily on accomplishments while in rank and future plans.

**C.5 ACADEMIC ADVISING, COUNSELING, AND OTHER STUDENT SERVICES**

- a. Budget Council/Executive Committee Statement. The budget council/executive committee is to summarize academic advising responsibilities in a separate document that includes the signatures and typed names of those preparing it. The statement is required for all tenured, tenure-track, and research professor faculty as well as faculty in lecturer, clinical and adjunct titles for whom this is one of the areas of performance excellence selected for review. The statement should describe and assess responsibilities at both the undergraduate and graduate levels during at least the last three years of service (where applicable) and describe other activities in support of the instructional process. Items to be considered in the assessment:
- how the candidate has assisted in advising undergraduate, graduate and postdoctoral students
  - service as undergraduate adviser or graduate adviser is especially noteworthy and deserves particular attention
  - individual instruction
  - advising majors for registration
  - orientation activities for new students
  - offering advice to students considering advanced degrees
  - offering help with internships and job placement
  - advising student organizations
  - student recruitment and retention activities

**C.6 SERVICE TO THE UNIVERSITY AND TO THE NATION, STATE AND COMMUNITY**

- a. Budget Council/Executive Committee Statement. The budget council/executive committee is to summarize service in a separate document that includes the signatures and typed names of those preparing it. The statement is required for all tenured, tenure-track, and research professor faculty as well as faculty in lecturer, clinical and adjunct titles for whom this is one of the areas of performance excellence selected for review. The statement should address the candidate's contributions in the two broad service areas during at least the last three years, describe the nature of activities cited in support of the recommendation, and assess the quality

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of the service contributions.

- 1) Administrative and Committee Service. Positions of leadership, such as chairing a committee, are to be noted in particular.
- 2) Academic and Professionally Related Public Service. Outstanding service in scholarly or professional organizations, in particular, and its significance should be noted, for example, whether an editorship is of a highly respected refereed journal, or whether an elected office is in a significant scholarly organization. A distinction is to be made between editorship of a journal and membership on a large editorial board.

Note: Significant administrative and committee service to the department, college, or university along with academic or professionally related public service activities is to be listed in the curriculum vitae (see section C.2).

**C.7 HONORS AND OTHER EVIDENCE OF MERIT OR RECOGNITION, INCLUDING CONTRACTS AND GRANTS**

- a. Budget Council/Executive Committee Statement. The budget council/executive committee is to summarize honors in a separate document that includes the signatures and typed names of those preparing it. The statement is required for all tenured, tenure-track, and research professor faculty as well as faculty in lecturer, clinical and adjunct titles for whom this is one of the areas of performance excellence selected for review. The statement should describe and assess the relevant evidence of exceptional academic or professional merit, as manifested by contracts and grants, medals, fellowships, invitations to speak (e.g., at other universities, at professional society meetings, and in other venues), election to office in scholarly or professional organizations, or other honors received.
- 1) Special Honors. Departmental statements on special honors should note the relative prestige of any honors or other professional recognition that the candidate may have received. It is important to distinguish between those awards made on the basis of promise and those awarded on the basis of accomplishment.
- 2) External Funding. Actively seeking and successfully obtaining external funding is a consideration for promotion in those departments where external funding is the norm. If external funding is not the norm, a comment to that effect should be part of the department's statement.

**C.8 LETTERS OF REFERENCE/RECOMMENDATION/EVALUATION**

- a. Tenured and Tenure-Track Titles. A minimum of five external review letters must be compiled that evaluate the contributions and accomplishments of the candidate. All letters must come from external reviewers from peer institutions/programs who have an understanding of the academic setting and the standards against which the area benchmarks itself. The emphasis of the review is to evaluate the research/scholarly/creative contributions and other accomplishment of the candidate, and to summarize his or her professional standing.
- b. Non-Tenure Track Titles (except Research Titles). A minimum of four review letters must be compiled that evaluate the contributions and accomplishments of the candidate. All four letters may come from internal reviewers unless research/scholarly/creative contribution is one of the areas selected for review, in which case two of the four letters must be from external reviewers. All contributions and accomplishments of these candidates should be evaluated where applicable, but special emphasis should be given to teaching performance and the other principal contribution area(s) selected.
- c. Research Professor Titles. A minimum of four review letters must be compiled that evaluate

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the contributions and accomplishments of the candidate. At least three of the four letters must come from external reviewers. The emphasis of the review is on research performance and the candidate's overall academic-related service.

- d. Responsibility for finalizing a list of appropriate external reviewers rests with the department chair/budget council/executive committee. The candidate and the chair/budget council/executive committee shall separately develop a list of arm's length external reviewers using the following considerations:
- seek out credible reviewers knowledgeable about the scholarly expectations of a peer research university
  - avoid conflicts of interest, e.g., dissertation chairs, postdoctoral mentors, co-authors, co-principal investigators, and collaborators
  - use recognized experts at peer institutions
  - letters solicited from collaborators must be placed in a separate section (e.g. Supplemental Materials, see section C.10.b) and will not count toward the minimum number of letters that are required
  - explanation for any deviations from these considerations (e.g., why a letter writer from a non-peer institution was chosen, etc.) must be provided on the Chart of Reviewers (see section C.8.e)

The candidate must be given the opportunity to review the list of outside reviewers and then the dean (or designee) must approve the final list of letter writers before the solicitation letter is sent (see sections B.1.a and B.2.c).

Solicitation Letter. Sample letters for departments and schools to use in soliciting letters from reviewers are available from the Provost's Office. Departments and colleges/schools may tailor these letters to their individual circumstances. However, all referees must be informed that, under Texas law, we cannot ensure the confidentiality of letters from reviewers. Letter writers also must be informed of any extension to the probationary period.

- e. Chart of Reviewers. All solicited review letters received concerning a candidate must be included in the candidate's dossier. The department is to prepare chart of all reviewers solicited using the template provided by the Provost's Office. Group by Received, Declined, and No Response, and list in alphabetical order by last name within each group providing the following information:
- name and rank or title of reviewer
  - name of institution (including the department) or other agency with which the reviewer is affiliated
  - brief statement about why the individual was selected
  - other relevant information about the reviewer that would assist those involved in the process who are not practitioner's in the candidate's field
  - indicate whether selected by department or candidate
  - indicate date received for letters and declinations
  - include the reason for declination, if provided
  - explanation for any deviations from those considerations listed in section C.8.d.
- f. Sample Letter. Insert a sample of the solicitation letter(s) sent to the reviewers, including a list of the five most significant works and any other materials that were sent for evaluation.
- g. Letters Received. The majority of the received review letters should be from reviewers nominated solely by the department. Place the letters in alphabetical order by last name. Make note in the upper right-hand corner of the first page of each letter whether the budget council/executive committee, candidate, or both, nominated the letter writer. This notation should match the information provided on chart of reviewers.

All solicited letters received must be included in the candidate's dossier. A short version of the referee's CV or résumé is to be included behind each letter.

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- h. Declinations. (If applicable.) Place declination correspondence in alphabetical order by last name behind the letters received. A CV is not required.
- i. Unsolicited letters. (If received.) Place the letters in alphabetical order by last name. A CV is not required.

**C.9 ADDITIONAL STATEMENTS**

Any additional, non-required statements added to the file as a result of the candidate's review before budget council/executive committee deliberations (sections B.1.b and B.2.d.i) or received after the candidate's review (section B.1.c) shall be date stamped and placed in a separate folder.

**C.10 SUPPLEMENTAL MATERIALS**

Supplemental materials shall accompany the promotion file at each level of review and be made available to all internal parties to whom its content is relevant for their review, deliberations and/or vote. Supplemental materials should be submitted to the central administration electronically in UT Box. (The Dean's Office should consult with the Provost's Office before making an exception to this requirement.)

- a. Student Written Comments. As stated in section C.3.h, include originals of all students' written comments for the last three years (i.e., 2015-16 through 2017-18). The Course Instructor Survey Summary evaluation page should be included as a coversheet for each class. Candidates who have taught at other institutions during the last three years may submit evaluations from those courses.
- b. Letters Solicited from Collaborators. The department is to prepare a separate chart of reviewers for letters solicited from collaborators, listed in alphabetical order by last name, using the template provided by the Provost's Office. Letters solicited from collaborators must be placed behind the chart of reviewers in a section separate from those solicited from arm's length reviewers and will not count toward the minimum number of letters that are required (see section C.8.d). A CV is not required.
- c. Other Supplemental Materials. In addition to the required materials described in these Guidelines, candidates have the discretion to include any materials that they believe are relevant to the promotion or tenure decision. Provide a table of contents as a coversheet to the other supplemental materials.
- d. Five Most Significant Works. As stated in section C.4.c, one set of the five most significant works should accompany the dossier as far as the central administration.

**Section D Outcomes****D.1 ANNOUNCEMENT OF DECISIONS**

The Office of the President will formally notify deans of the results of the spring promotion conferences, including those pending cases where an action of terminal appointment is being considered. Every effort will be made to do so no later than Friday, February 15, 2019. Deans shall ensure that candidates are informed of the decisions made about their cases within three (3) business days of receiving notification from the president.

The President's Committee will revisit all terminal appointment pending cases in April. Final arguments (see section D.2), if submitted, will be considered at this time. The president will endeavor to notify deans of the final action on Terminal Appointment Pending cases by Friday, April 12, 2019.



**GENERAL GUIDELINES 2018-19****D.2 FINAL ARGUMENTS IN TERMINAL APPOINTMENT PENDING CASES**

A candidate whose case is Terminal Appointment Pending may present further arguments to the president before the case is decided. Address final arguments to the president and deliver (hard copy) to the Provost's Office, Main Building 201, or electronic copy to [evpp.aps@utlists.utexas.edu](mailto:evpp.aps@utlists.utexas.edu) by Monday, March 25, 2019. The president will refer the written arguments to the department and college/school for additional comment before reaching a final decision.

**D.3 REQUEST FOR REVIEW BY COMMITTEE OF COUNSEL ON ACADEMIC FREEDOM AND RESPONSIBILITY (CCAFR)**

The candidate or the president may request a review of the case by the Committee of Counsel on Academic Freedom and Responsibility (CCAFR). Such a review is limited to one or both of the following: 1) to determine whether, in its judgment, the procedures followed in the candidate's case accorded with both the university's and commonly accepted professional standards for promotion and tenure; and 2) whether the decision was based upon a violation of the faculty member's academic freedom. CCAFR shall not review disputes about professional judgments on the merits of the faculty member's record.

A request for review shall describe the procedural irregularity being asserted and/or the alleged violation of academic freedom being asserted and how it impacted the decision. Candidates have until Monday, March 25, 2019, to submit a request for review to CCAFR (Office of the General Faculty, WMB 2.102, F9500) and provide a copy to the provost (MAI 201, G1000 or [evpp.aps@utlists.utexas.edu](mailto:evpp.aps@utlists.utexas.edu)). The provost's office will distribute copies of the request to the dean and department chair.

CCAFR may delegate its work to a subcommittee of no fewer than three members. CCAFR shall report to the president, with a copy to the candidate, by Friday, April 19, 2019. The president will consider the subcommittee's report and advise CCAFR of the outcome of the case. The president may extend the time for the subcommittee to perform its work.

**D.4 RECONSIDERATION OF A PROMOTION AND TENURE DECISION IN THE TERMINAL YEAR**

The university has no obligation to provide a faculty member with reconsideration of a tenure decision during the terminal year, however, a department may request it based on submission of substantial new evidence by the candidate. The department is responsible for assessing whether new evidence of productivity presented by a candidate is substantial in nature and sufficiently compelling to merit reconsideration of the decision. Such a review is to examine any new evidence (i.e., evidence not previously considered) to determine whether it clearly demonstrates that the decision made the prior year should be reversed.

If a determination of compelling new evidence is made in a terminal year case, the department will prepare a new promotion file focusing on the new evidence and submit this, along with the previous year's dossier, to each level in the review process. The budget council/executive committee shall prepare an assessment of the new evidence put forward in each area of contribution.

Reconsideration during the terminal appointment year does not entitle a candidate to an additional terminal year.

**D.5 GRIEVANCES**

- a) Use of Grievance Process. Nothing in this document is intended to alter a candidate's right to use the university's existing grievance processes as described in HOP 2-2310.
- b) Grievance of a Terminal Appointment Decision. An individual who alleges evidence of an infringement of the Constitution or laws of Texas or the United States may present a grievance in person or through a representative, to the provost, who shall meet with the faculty member.

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A faculty member may request a review by a hearing tribunal by submitting a written request to the president describing in detail the facts relied upon to prove that the decision was made for reasons that are unlawful. If the president determines that the alleged facts, if proven by credible evidence, support a conclusion that the decision was made for unlawful reasons, such allegations shall be heard by a hearing tribunal in accordance with procedures in Regent's Rule 31008 (see section 6) and the institutional faculty grievance procedure HOP 2-2310.

### D.6 RESOURCES

- For assistance with the General Guidelines or the promotion and tenure process generally: Office of the Executive Vice President and Provost at (512) 471-3007 or [evpp-aps@utexas.edu](mailto:evpp-aps@utexas.edu)
- To speak with a neutral third party about individual concerns: Faculty Ombudsperson at (512) 471-5866
- For questions about procedural or academic freedom concerns: Chair of the Committee of Counsel on Academic Freedom and Responsibility (CCAFR) through the Office of the General Faculty at (512) 471-5934



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**Appendix A**  
**Summary of Dossier Preparation and UT Box PDF File Names and Contents**

Dossier Folder	
PDF File Name in UT Box	PDF Document Contents
01_Change of Rank Form.pdf	Change in Academic Rank/Status Form
02_Dean Statement.pdf	Statement from the Dean
03a_Chair Statement Primary.pdf	Statement from the Chair of the Primary Department
03b_Chair Statement Joint.pdf	Statement from the Chair of the Joint Department (If applicable)
04_Mid-Probationary Review.pdf	Copy of Mid-Probationary Review (Only applicable for tenure candidates)
05a,b,c_Other Statement_CSU Title.pdf	Statement from the Courtesy or Other Department Chair/Center Director (If applicable). Statements from units where the candidate holds a courtesy appointment should appear before statements from other departments.
06_CV.pdf	Curriculum Vitae
07_Scholarly Record.pdf	<p>Complete list of all publications and scholarly/creative works published (or in an equivalent status) in reverse chronological order and grouped into four sections as applicable:</p> <p>Candidate's dissertation/thesis title and dissertation/thesis advisor's name (Only applicable for tenure candidates)</p> <p>Co-authors who were in a student or other trainee status at the time of submission should be noted in <i>italics</i>.</p> <ol style="list-style-type: none"> <li>1. Works published (or in equivalent status), in press, accepted, or under contract while in current rank at UT Austin</li> <li>2. Works published (or in equivalent status) while in current rank at other institutions</li> <li>3. Works published (or in equivalent status) while in previous ranks at UT Austin</li> <li>4. Works published (or in equivalent status) while in previous ranks at other institutions</li> </ol> <p>Co-authored works listed in section 1 should indicate who the co-authors are (e.g., current or former students, peers or faculty colleagues at UT Austin or at another institution). Include a <u>brief</u> qualitative statement of contribution for each co-authored work.</p> <p>Forthcoming works that are In Press, Accepted, or Under contract should be listed in section 1 and clearly labeled. Include clearly labeled supporting documentation (e.g., contracts from editors, publishing houses, producers, galleries, or other conduits for scholarly and/or creative work, and include reviews, where available).</p>

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<b>Dossier Folder (continued)</b>	
<b>PDF File Name in UT Box</b>	<b>PDF Document Contents</b>
08_Teaching Statements.pdf	Budget council/executive committee statement with typed names and signatures of preparers  Candidate Statement (four pages or less; does not have to be signed)
09_CIS.pdf	Report of Course Rating Averages  Summary of Course Instructor Survey Results
10_Peer Teaching Observations.pdf	Peer Observation Reports
11_Graduate Students and Postdocs	Committee Report of Masters and Doctoral Theses  Listing of Postdoctoral Fellows Supervised
12_Research.pdf	Budget council/executive committee statement with typed names and signatures of preparers  List of Five Most Significant Works  Candidate Statement (four pages or less; does not have to be signed)
13_Advising, Service, and Honors.pdf	Budget council/executive committee statement on advising with typed names and signatures of preparers*  Candidate Statement on Advising (If submitted)  Budget council/executive committee statement on service with typed names and signatures of preparers*  Candidate Statement on Service (If submitted)  Budget council/executive committee statement on honors with typed names and signatures of preparers*  Candidate Statement on Honors (If submitted)
14_Chart of Reviewers, Sample Letter, Materials Sent.pdf	Chart of Reviewers grouped by Received, Declined, and No Response listed in alphabetical order by last name within each group  Sample of Solicitation Letter  List of Five Most Significant Works and any other materials that were sent for evaluation

\*The budget council/executive committee statements on Advising, Service, and Honors are required for tenured, tenure track, and research professor faculty as well as faculty in lecturer, clinical, and adjunct titles for whom this is one of the areas of performance excellence selected for review.

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<b>Dossier Folder (continued)</b>	
<b>PDF File Name in UT Box</b>	<b>PDF Document Contents</b>
15a,b,c_Ltr_Last name-Institution.pdf	Letters in alphabetical order by last name - coded in upper right-hand corner of the first page of each letter whether the budget council/executive committee, candidate, or both, nominated the letter writer. Must match the information provided on the chart of reviewers.  Letter writer CV or resume behind each letter.
16_Declinations.pdf	All declinations correspondence in alphabetical order by last name (if received). No CV required.
17_Unsolicited.pdf	All unsolicited letters in alphabetical order by last name (if received). No CV required.

<b>Additional Statements</b> This is a separate folder that should only be created if applicable.	
<b>PDF File Name in UT Box</b>	<b>PDF Document Contents</b>
Additional Statement_ccyy-mm-dd Last name.pdf	Any non-required statements or information added to the file as a result of the candidate's review before the budget council/executive committee deliberations or received afterwards during the course of the review process.

<b>Supplemental Materials</b> This is a separate folder and all supplemental materials must be submitted to the central administration electronically in UT Box. (The Dean's Office should consult with the Provost's Office before making an exception to this requirement.)	
<b>PDF File Name in UT Box</b>	<b>PDF Document Contents</b>
01a,b,c_Student Comments_SEMESTER NAMEYY-Course#.pdf	The Course Instructor Survey Summary evaluation page should be included as a cover sheet for each class.
02_Letters Solicited from Collaborators.pdf	Chart of collaborators listed in alphabetical order by last name.  All solicited letters in alphabetical order by last name behind the chart (If received). No CV required.
03_Other Supplemental Material.pdf	Items submitted by the candidate - should include a table of contents (If submitted)
04a,b,c_Significant Publication (##-Title).pdf	Significant Publication
05a,b,c_Other Publication (##-Title).pdf	Other Publication submitted by the candidate (Stays in the Dean's Office)
06_Teaching Portfolio.pdf	Teaching Portfolio (Stays in the Dean's Office)

\*This item is required for tenured, tenure track, and research professor faculty as well as faculty in lecturer, clinical, and adjunct titles for whom research is one of the areas of performance excellence selected for review.

# EXHIBIT 23

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

EVDOKIA NIKOLOVA,                     )  
  )  
Plaintiff,                                 )  
  )  
VS.   ) CAUSE NO: 1:19-cv-00877-RP  
  )  
UNIVERSITY OF TEXAS,                 )  
  )  
Defendant.                               )

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REMOTE ORAL DEPOSITION

OF

CARMEN SHOCKLEY  
AS CORPORATE REPRESENTATIVE

MAY 28, 2021  
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REMOTE ORAL DEPOSITION of CARMEN SHOCKLEY produced as a witness at the instance of the PLAINTIFF, and duly sworn, was taken in the above-styled and numbered cause on the 28th day of May 2021, from 9:01 A.M. to 1:23 P.M. reported remotely before Jacqueline Love-Worline, CSR, in and for the State of Texas, reported by machine shorthand remotely from Dallas, Texas, pursuant to the Texas Rules of Civil Procedure and the provisions stated on the record or attached hereto, and also pursuant to the First Emergency Order regarding the COVID-19 State of Disaster declared by Governor Abbott dated March 13, 2020, renewed thereafter.

<p>1 APPEARANCES</p> <p>2 FOR THE DEFENDANT: UNIVERSITY OF TEXAS AT AUSTIN</p> <p>3 BENJAMIN DOWER</p> <p>4 AMY HILTON</p> <p>5 Assistant Attorney General</p> <p>6 Office of the Attorney General</p> <p>7 General Litigation Division, P.O. Box 12548, Capitol Station</p> <p>8 Austin, TX 78711-2548</p> <p>9 Telephone: 512-463-2120</p> <p>10 Benjamin.dower@oag.texas.gov</p> <p>11</p> <p>12 FOR THE PLAINTIFF: EVDOKIA NIKOLOVA</p> <p>13</p> <p>14 ROBERT NOTZON</p> <p>15 The Law Office of Robert Notzon</p> <p>16 1502 West Avenue</p> <p>17 Austin, TX 78701</p> <p>18 Telephone: 512-474-7563</p> <p>19 Robert@notzonlaw.com</p> <p>20 ROBERT SCHMIDT</p> <p>21 Crews Law Firm, P.C.</p> <p>22 701 Brazos, Suite 900</p> <p>23 Austin, TX 78701</p> <p>24 Telephone: 512-346-7077</p> <p>25 Schmidt@crewsfirm.com</p> <p>26</p> <p>27 ALSO PRESENT:</p> <p>28 Laura Barbour, In-House Assistant General Counsel, UT Austin</p> <p>29 Jody Hughes, Associate Vice President of Legal Affairs, UT Austin</p> <p>30</p> <p>31</p> <p>32</p> <p>33</p> <p>34</p> <p>35</p>	<p>1 EXHIBIT INDEX</p> <p>2 NO. DESCRIPTION IDENTIFIED</p> <p>3 38 General Guidelines for Promotion and Tenure</p> <p>4 of all Faculty Ranks Excluding the Medical</p> <p>5 School 2018-2019 Academic Year 34</p> <p>6 44 Plaintiff's First Amended Notice of Oral and</p> <p>7 Video Deposition of Carmen Shockley as a Fact</p> <p>8 Witness and Corporate Representative 9</p> <p>9 45 E-mail 53</p> <p>10 46 E-mail 58</p> <p>11 47 E-mail 61</p> <p>12 48 E-mail 66</p> <p>13 50 *Witness Notes N/A</p> <p>14 51 Letter date 5/13/19 from G. Fenves to Dr. Brian</p> <p>15 Evans 85</p> <p>16</p> <p>17 52 Extension of the Tenure Track Probationary</p> <p>18 Period 94</p> <p>19</p> <p>20 53 E-mail 111</p> <p>21 *Exhibit retained/to be submitted by counsel</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>1 INDEX</p> <p>2 PAGE</p> <p>3 WITNESS: CARMEN SHOCKLEY</p> <p>4 Examination by Mr. Notzon.....5</p> <p>5 Examination by Ms. Hilton.....N/A</p> <p>6 Signature Page.....117</p> <p>7 Reporter's Certificate.....119</p> <p>8</p> <p>9 REPORTER'S NOTE 1: Quotation marks are used for clarity and do</p> <p>10 not necessarily reflect a direct quote.</p> <p>11</p> <p>12 REQUESTED DOCUMENTS/INFORMATION</p> <p>13 N/A</p> <p>14 CERTIFIED QUESTIONS</p> <p>15 N/A</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 THE REPORTER: Today is Friday, May 28, 2021.</p> <p>2 This is the videoconferenced deposition of Carmen Shockley in</p> <p>3 the matter of Nikolova versus UT Austin. Due to the Covid-19</p> <p>4 pandemic, we are remotely situated, and we are on the record at</p> <p>5 9:01 a.m. Central Standard Time. My name is Jacqueline</p> <p>6 Love-Worline, TX CSR No. 8970, and my business address is</p> <p>7 located at P.O. Box 245, Manchaca, Texas 78652. Would all</p> <p>8 persons present please state their appearances beginning with</p> <p>9 the questioning attorney first.</p> <p>10 MR. NOTZON: Robert Notzon and Bob Schmidt for</p> <p>11 the plaintiff Evdokia Nikolova.</p> <p>12 MS. HILTON: Amy Hilton and Benjamin Dower for</p> <p>13 University of Texas at Austin.</p> <p>14 Oh, and we have have some stipulations that we'd</p> <p>15 like to read into the record.</p> <p>16 The parties stipulate that this deposition may</p> <p>17 be taken remotely via Zoom.</p> <p>18 The parties stipulate that Objection Form is</p> <p>19 sufficient to preserve objections to the form of the questions</p> <p>20 and will be used in lieu of the more specific form-based</p> <p>21 objections.</p> <p>22 The parties stipulate that all objections except</p> <p>23 as to the form of the question or answer are reserved until</p> <p>24 trial.</p> <p>25 And this isn't really a stipulation but the</p>

<p>6</p> <p>1 deponent would like an opportunity to read and review the</p> <p>2 transcript and recording pursuant to Federal Rule of Civil</p> <p>3 Procedure 30(e), and the parties stipulate that Mr. Schmidt can</p> <p>4 record this proceeding without the need to announce the time.</p> <p>5 MR. NOTZON: Agreed.</p> <p>6 CARMEN SHOCKLEY,</p> <p>7 Having been duly sworn, testified as follows:</p> <p>8 EXAMINATION</p> <p>9 BY MR. NOTZON:</p> <p>10 Q. Good morning, Ms. Shockley.</p> <p>11 A. Good morning.</p> <p>12 Q. So have you ever had your deposition taken before?</p> <p>13 A. No, sir.</p> <p>14 Q. Okay. So as -- this is your first time and it's</p> <p>15 fairly new to a lot of us being on Zoom, I'm assuming you're</p> <p>16 pretty well experienced with Zoom meetings?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Sad to hear it but it's the way it is. The</p> <p>19 deposition that we're here to do is your testimony not a</p> <p>20 conversation, not -- it's fairly formal. You're under oath as</p> <p>21 you've just sworn, so what you'd have to say today would have</p> <p>22 the same force and effect as if we were in front of a judge or</p> <p>23 a jury. You understand that?</p> <p>24 A. I do.</p> <p>25 Q. Okay. And the court reporter is going to be taking</p>	<p>8</p> <p>1 A. It is.</p> <p>2 Q. Okay. And how long have you been in that position?</p> <p>3 A. In this position about three years and nine or</p> <p>4 10 months.</p> <p>5 Q. Okay. And what position did you have before that?</p> <p>6 A. Before that I was Director.</p> <p>7 Q. Director?</p> <p>8 A. Correct. Yes, I was trying to think if there was a</p> <p>9 qualifier. Director of Academic Personnel Services in the</p> <p>10 Provost office.</p> <p>11 Q. Okay. And how long were you in that position?</p> <p>12 A. That position -- I'm counting backwards in my head --</p> <p>13 three years, I believe.</p> <p>14 Q. And who was the Provost at that time?</p> <p>15 A. I had several Provosts. Since I have been in the</p> <p>16 Provost office, I'd have to look at at their employment dates</p> <p>17 to tell you which Provost I worked under when.</p> <p>18 Q. No problem. Who promoted you to your current</p> <p>19 position?</p> <p>20 A. My previous supervisor Janet Dukerich. She was the</p> <p>21 Senior Vice Provost for Faculty Affairs at the time.</p> <p>22 Q. And is she still there?</p> <p>23 A. Not in that position.</p> <p>24 Q. Okay. What's her position now?</p> <p>25 A. Vice Provost for Advocacy and Dispute Resolution.</p>
<p>7</p> <p>1 down every word that's said today so it helps if we speak one</p> <p>2 at a time and sometimes you're going to absolutely know what my</p> <p>3 question is going to be before I finish it but if you could</p> <p>4 wait for me to get the words out because she's going to type it</p> <p>5 up on the page and if you start in, then the messages start</p> <p>6 getting jumbled on the printed page as well as being hard to</p> <p>7 hear or transcribe for the court reporter. So if you could</p> <p>8 wait for me to finish my question before you answer and I'll do</p> <p>9 the reverse for you it should be helpful.</p> <p>10 Lastly, this shouldn't take too long but if you</p> <p>11 ever need to take a break for any reason just let me know and</p> <p>12 we'll try to accommodate you as soon as possible, okay?</p> <p>13 A. Okay.</p> <p>14 Q. All right. What is your position at UT?</p> <p>15 A. I am the Assistant Vice President for Faculty</p> <p>16 Affairs.</p> <p>17 Q. Okay. And who is your direct supervisor?</p> <p>18 A. My direct supervisor is Tasha Beretvas.</p> <p>19 Q. And what's her title?</p> <p>20 A. Senior Vice Provost for Faculty Affairs.</p> <p>21 Q. Okay. And then her supervisor would be the Provost?</p> <p>22 A. That's correct. Right now it's Interim Provost</p> <p>23 Daniel Jaffe.</p> <p>24 Q. And is this the same position you held back in 2018</p> <p>25 and 2019?</p>	<p>9</p> <p>1 Q. Okay. And when did you start that position?</p> <p>2 A. Approximately two years ago.</p> <p>3 Q. Would that have been before or after Dr. Nikolova was</p> <p>4 denied tenure?</p> <p>5 A. That would have been after.</p> <p>6 Q. You understand that you're here today both in your</p> <p>7 individual capacity of what does Carmen Shockley remember or</p> <p>8 not remember about what happened and also to speak as UT on</p> <p>9 three topics. Do you understand that?</p> <p>10 A. Yes.</p> <p>11 Q. Okay.</p> <p>12 A. Yes.</p> <p>13 Q. Oh, and are you Dr. Shockley or Ms. Shockley?</p> <p>14 A. Ms.</p> <p>15 Q. Okay.</p> <p>16 A. Thank you.</p> <p>17 (Exhibit 44 identified.)</p> <p>18 Q. Yep. We're supposed to be formal. Okay.</p> <p>19 Let me go ahead and put up as an exhibit -- it</p> <p>20 will be Exhibit 44 the deposition notice. It will be in the</p> <p>21 chat. This will give us practice for the deposition exhibits</p> <p>22 we'll use today. Are you able to view it?</p> <p>23 A. Yes.</p> <p>24 Q. And you see the three topics listed there?</p> <p>25 A. Yes.</p>

<p>10</p> <p>1 Q. Let's go off the record real quick.</p> <p>2 (Technical difficulties. Brief pause in the</p> <p>3 proceedings.)</p> <p>4 MR. NOTZON: Back on the record.</p> <p>5 MR. SCHMIDT: Sorry, give me one second. I'm</p> <p>6 sorry.</p> <p>7 Q. (BY MR. NOTZON) Okay, Ms. Shockley. You're able to</p> <p>8 view the document?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And the three topics listed there you're</p> <p>11 prepared to testify as UT on those three topics?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And we'll get to those a little bit later. I</p> <p>14 wanted to kind of talk to you as the individual first, okay?</p> <p>15 A. Okay.</p> <p>16 Q. How long -- well, when did you first start working at</p> <p>17 UT just to get an entry there --</p> <p>18 A. July 2001.</p> <p>19 Q. And What job was that?</p> <p>20 A. I was an Administrative Assistant in the Dean's</p> <p>21 office in the College of Fine Arts.</p> <p>22 Q. Now are you a longhorn by education as well?</p> <p>23 A. No, just my occupation.</p> <p>24 Q. Okay. When did you first learn that there was an</p> <p>25 issue related to Dr. Nikolova regarding gender or pregnancy</p>	<p>12</p> <p>1 Q. Did you ever have -- did you ever have an awareness</p> <p>2 or understand that other people had concerns that gender or</p> <p>3 pregnancy bias or discrimination might be an issue related to</p> <p>4 Dr. Nikolova?</p> <p>5 A. No, not that I recall.</p> <p>6 Q. Right. You can't testify about what you don't</p> <p>7 remember.</p> <p>8 A. Okay.</p> <p>9 Q. Okay. And when you learned of that, was it through</p> <p>10 her CCAFR appeal?</p> <p>11 A. Yes. I refer to that as a request for review, yes.</p> <p>12 Q. Okay. Her writing?</p> <p>13 A. Yes.</p> <p>14 Q. And what did you do with that information?</p> <p>15 A. That information was part of the request for review</p> <p>16 to CCAFR, so waited for CCAFR to respond. There wasn't</p> <p>17 anything in my position to do with that information I'll say-so</p> <p>18 then it was a matter of waiting for CCAFR to look into the</p> <p>19 concerns raised in her request for review to see what they</p> <p>20 documented about that. Yes.</p> <p>21 Q. What was your -- I guess, how did you come about to</p> <p>22 get a copy or be aware of her request for review?</p> <p>23 A. The general guidelines for promotion and tenure</p> <p>24 specify that the Provost office will receive a copy of the</p> <p>25 request that's made to CCAFR I believe in her case -- which I</p>
<p>11</p> <p>1 bias or discrimination in this -- in your experience?</p> <p>2 MS. HILTON: Objection. Form.</p> <p>3 A. When did I first learn of her concern or something</p> <p>4 else?</p> <p>5 Q. That there was a concern whether it was from her or</p> <p>6 anyone else that there was a concern that there was gender or</p> <p>7 pregnancy bias or discrimination involved with her employment?</p> <p>8 A. The first time I recall being aware that she had a</p> <p>9 concern about gender or pregnancy discrimination was regarding</p> <p>10 her promotion and tenure case and that would have been in the</p> <p>11 spring of 2019 when she submitted a complaint to -- or a</p> <p>12 request for review to the university's committee for counsel on</p> <p>13 academic freedom and responsibility, an acronym that we</p> <p>14 pronounce CCAFR and that's the first I recall of hearing of</p> <p>15 that concern and that did come up in my reviews for the topic</p> <p>16 as a corporate witness. I was -- that's when I realized that</p> <p>17 was the first.</p> <p>18 Q. Okay. You might not have remembered that had you not</p> <p>19 reviewed the documents?</p> <p>20 A. That's correct.</p> <p>21 Q. Okay. And you specified that that was the first time</p> <p>22 you learned that she had a concern?</p> <p>23 A. Yes.</p> <p>24 Q. Correct?</p> <p>25 A. Yes.</p>	<p>13</p> <p>1 can't recall in her case whether it was forwarded -- forwarded</p> <p>2 me or whether I was copied on it directly.</p> <p>3 Q. Okay. And you would have been the contact person</p> <p>4 involved in that request for review from the Provost office?</p> <p>5 A. Correct.</p> <p>6 Q. Okay.</p> <p>7 A. Yes.</p> <p>8 Q. All right. Is that also specified in the guidelines</p> <p>9 or does it just say the Provost office and people know to get</p> <p>10 it to you?</p> <p>11 A. I believe it says the Provost office. I'd have to</p> <p>12 look at the guidelines from that year to see exactly what it</p> <p>13 said but I am also generally known in the Provost office as the</p> <p>14 contact for the promotion and tenure process.</p> <p>15 Q. Okay. And Did you ever have any discussions with</p> <p>16 anyone -- well, before I go there, any other complaints that</p> <p>17 you became aware of that either Dr. Nikolova or someone else</p> <p>18 communicated about gender or pregnancy bias involving Dr.</p> <p>19 Nikolova other than the request for CCAFR review?</p> <p>20 A. Not that I recall.</p> <p>21 Q. Did you have any conversations with either the --</p> <p>22 your supervisor, Ms. Dukerich or the Provost or Dean Wood or</p> <p>23 anybody in administration really about Dr. Nikolova's complaint</p> <p>24 of gender or pregnancy discrimination?</p> <p>25 A. Not that I recall. May I clarify your question?</p>



<p style="text-align: right;">14</p> <p>1 Q. Sure.</p> <p>2 A. For thinking of that in the frame of reference of the</p> <p>3 initial -- the initial reading of that in the report, but is</p> <p>4 that what you meant with your question?</p> <p>5 Q. No. It's any of her complaints at any time about</p> <p>6 gender and pregnancy bias, or anybody else's concerns about</p> <p>7 gender and pregnancy bias involving Dr. Nikolova? Did you have</p> <p>8 conversations with anyone in UT administration about those?</p> <p>9 A. I don't recall specific conversations about those,</p> <p>10 that's true, because it was part of her claim to CCAFR and part</p> <p>11 of what they wrote down -- what they went -- referenced in</p> <p>12 their report. It would be typical for conversations to take</p> <p>13 place about the claims made by a candidate and the finding of</p> <p>14 CCAFR but I don't recall specific conversations about that</p> <p>15 aspect.</p> <p>16 Q. Okay. Did you play any role in responding to CCAFR?</p> <p>17 A. When the president is preparing to respond to the</p> <p>18 CCAFR report, he has a meeting with the Provost and me and my</p> <p>19 supervisor who was Dr. Dukerich at the time and legal counsel</p> <p>20 from UT.</p> <p>21 Q. Okay.</p> <p>22 A. To answer your question, I participated in that</p> <p>23 conversation.</p> <p>24 Q. Right, and because the UT attorney was there, I'm not</p> <p>25 asking you to tell us what was said because that would be</p>	<p style="text-align: right;">16</p> <p>1 chairs, and members of the President's Committee during the</p> <p>2 period of the year where they are actively reviewing and</p> <p>3 discussing files. Throughout other parts of the year, I assist</p> <p>4 Senior Vice Provost and the Provost with assembling the general</p> <p>5 guidelines for promotion and tenure and other related documents</p> <p>6 that are on the Provost office website. Let's see. I attend</p> <p>7 meetings on my own or with Senior Vice Provost or Provost or</p> <p>8 other members of the President's Committee with department</p> <p>9 chairs, Dean's and faculty members across campus throughout the</p> <p>10 year to discuss the process and answer questions that</p> <p>11 individuals have. During the period where the President's</p> <p>12 Committee is actively reviewing the files, I'm in charge or</p> <p>13 responsible for making sure they have the materials that they</p> <p>14 need in an orderly fashion and in a timely manner. I sit in</p> <p>15 with the President's review committee when they are discussing</p> <p>16 files amongst themselves and with Deans. Once the President</p> <p>17 has made a decision in a case, I record his decision, or her</p> <p>18 decision -- that's his decision.</p> <p>19 Q. What do you mean, "record"?</p> <p>20 A. Oh, good. I write it down so that it can be</p> <p>21 transmitted into the letter that the President sends to each</p> <p>22 Dean.</p> <p>23 Q. And when you record that decision, is it a thumbs up</p> <p>24 or a thumbs down?</p> <p>25 A. With each promotion candidate, there are a number of</p>
<p style="text-align: right;">15</p> <p>1 protected. I'm asking about conversations that don't involve</p> <p>2 the attorney.</p> <p>3 A. I don't recall conversations that did not involve our</p> <p>4 attorney.</p> <p>5 Q. Okay. And just to be clear, you also didn't have any</p> <p>6 conversations with anybody from the Dean's office for the</p> <p>7 School of Engineering or the ECE department related to concerns</p> <p>8 of gender or pregnancy bias concerning Dr. Nikolova, is that</p> <p>9 correct?</p> <p>10 A. That is correct in terms of my recollection, yes.</p> <p>11 Q. I'm trying to figure out which questions I'm going to</p> <p>12 ask you and which questions I'm going to ask UT, so pardon me</p> <p>13 while I delay a little bit.</p> <p>14 I guess, let me hear from you about your job</p> <p>15 duties as the person from the Provost office that's in charge</p> <p>16 of promotion and tenure issues. I'm sorry, I probably</p> <p>17 misstated that a little bit, but if you could expound on that.</p> <p>18 A. In that specific aspect of my position?</p> <p>19 Q. Especially as it relates to 2018, 2019 when Dr.</p> <p>20 Nikolova was going up for tenure?</p> <p>21 A. Certainly. Okay. Let's see.</p> <p>22 As I mentioned, I was and am generally</p> <p>23 considered the individual in the Provost office who can address</p> <p>24 questions related to the promotion and tenure process. Those</p> <p>25 questions typically come from candidates, Dean's, department</p>	<p style="text-align: right;">17</p> <p>1 -- I don't know if a number -- there are specific outcomes that</p> <p>2 the President may decide up on. They vary and can be nuances of</p> <p>3 thumbs up -- thumbs down. And in the related documents on the</p> <p>4 Provost office website, there is a chart of the various types</p> <p>5 of promotion files and the various outcomes that can come about</p> <p>6 in those.</p> <p>7 Q. Would you write, while you're in the President's</p> <p>8 Committee deliberations, discussions, conversations with Deans,</p> <p>9 etcetera, do you take notes?</p> <p>10 A. No.</p> <p>11 Q. Okay. Your position is to facilitate access to</p> <p>12 dossiers and answer any questions related to process?</p> <p>13 A. Correct. Yes, and I -- I should specify, when you</p> <p>14 asked about notes, I was thinking of notes about the merits of</p> <p>15 specific candidates. It's true that I do not take notes on</p> <p>16 those but I do take notes for ideas that come about from the</p> <p>17 President's Committee about improvements to the process or</p> <p>18 things that need to be clarified in the general guidelines or</p> <p>19 discussed when they host various panel presentations. I do</p> <p>20 take those notes. They're transitory and lead to the -- lead</p> <p>21 in preparation for those discussions or improvements to the</p> <p>22 general guidelines.</p> <p>23 Q. Which are separate and apart from any particular</p> <p>24 information or deliberation related to a particular candidate?</p> <p>25 A. That's true.</p>

<p>18</p> <p>1 Q. And then to clarify the decision that you record, it 2 is just the result and not the reasoning? 3 A. Correct. 4 Q. And just to be careful, would you define transitory 5 and your use of that word just a little bit ago? 6 A. Oh, sure. The way I use that word was to describe a 7 record that I make in my capacity as the Assisant Vice 8 President that then becomes memorialized in a -- for example, 9 final decision letter from the President or changes to the 10 general guidelines for promotion and tenure. 11 Q. For use in a future document? 12 A. Yes. 13 Q. Okay. 14 A. Yes. 15 Q. Do you recall a conversation related to Dr. Nikolova? 16 A. Which conversation? 17 Q. The President's Committee. 18 A. Oh, yes, I do. I recall her case being discussed 19 between the members of the President's Committee and the Dean. 20 Q. Okay. And was the Dean present for the deliberation 21 and the decision? 22 A. She was present for discussion of the file. I don't 23 recall if she was present when the Dean -- excuse me, when the 24 President made a decision. I don't recall. 25 Q. Okay. Do you recall if the President made a decision</p>	<p>20</p> <p>1 want to assume that conflict meant contention. 2 A. Thank you. 3 Q. Okay. I guess if you could, what do you recall about 4 the discussion related to Dr. Nikolova with Dean Wood present 5 or not, if you could tell us. 6 A. Pardon -- I cut you off. What did you say at the 7 end? 8 Q. If you could just tell us. 9 A. I recall that it was not a clear case for tenure nor 10 was it -- it was just not a clear case. There was -- I recall 11 there being a fair amount of discussion relative to other 12 cases. I recall concerns about her record being discussed. I 13 don't remember what they specifically were. I recall strengths 14 about her case being discussed but I don't remember 15 specifically what they were. 16 Q. Okay. 17 A. That's typical. I think that's a fair recollection. 18 Q. Okay. 19 A. An accurate recollection. 20 Q. And do you understand that there was a unanimous P&amp;T 21 committee vote in favor of promotion to tenure from the 22 college? 23 A. I actually did not recall what the vote was. 24 Q. Okay. So there would be strong support for her 25 promotion from the chair, the budget committee, the P and T</p>
<p>19</p> <p>1 with the other committee members present related to Dr. 2 Nikolova? 3 A. I don't recall specifically. 4 Q. Okay. 5 A. That would have been the normal practice. I think 6 that's fair to say but I don't recall specifically on this 7 case. 8 Q. The normal practice is for the President to make the 9 decision with the committee present and he announces his 10 decision -- he or she, but it's he in this case -- announces 11 his decision with the committee present and you? 12 A. Yes. 13 Q. And do you recall President Fenves taking a poll on 14 Dr. Nikolova's case from the committee? 15 A. I recall him soliciting feedback from the committee 16 members, yes. I don't know if I would characterize it as a 17 poll. 18 Q. Okay. Do you recall if there was conflict? 19 A. I don't recall. 20 Q. Okay. 21 A. I don't recall that. 22 Q. Maybe that's a -- too general of a word. Was there 23 people on either side of the promote/don't promote -- 24 A. That's what I don't recall. 25 Q. Okay. I just didn't want to -- you know, I didn't</p>	<p>21</p> <p>1 committee, and it was only Dean Wood that actually gave the 2 first negative vote. Did you understand that? 3 A. Yes, I do recall that. 4 Q. Okay. And so that alone would indicate that it 5 wouldn't be a clear case one way or the other, I would think, 6 right? 7 A. I'd agree with that. 8 Q. Okay. And do you recall if the discussion centered 9 around the fact that she was coming up early, i.e., not having 10 spent six years at UT? 11 A. Yes, because -- the reason I'm certain I recall that 12 is because I recall that the options for the decision that the 13 President could make included promote, terminal appointment, 14 and do not promote and for a tenured tract faculty member to 15 have the option of do not promote it means that they have not 16 completed six years of probationary status. 17 Q. At UT? 18 A. Correct, at UT. 19 Q. Okay. Other than just remembering that those were the 20 options, do you recall the conversation about whether to 21 promote to tenure or not involving in the fact that she was 22 coming up early, i.e., the qualifications? 23 A. Could you ask that again, please. 24 Q. Sure. I'm just trying to -- when I asked you if her 25 early status had been discussed -- had been part of the</p>

<p>22</p> <p>1 discussion, you said you recall that it was because there were 2 options and I was wondering if there was anything else you 3 recall other than the fact that at the end of the day, he had 4 an additional option or if you recall that there was actual 5 discussion about the topic among the participants. 6 A. Okay, thank you. I do recall there being discussion 7 about her years in rank at UT Austin and about her years of -- 8 which of those years of rank -- not specifically, but the 9 number of those years in rank, that equal her probationary 10 period. I do not recall specific detailed conversation about 11 that. 12 Q. Okay. And that's because she had taken a probationary 13 extension year so the counting had to be understood? 14 A. That's correct. For all tenure track faculty 15 members, we calculate the number of years in rank at UT Austin 16 and the number of those years that are considered that 17 individual's probationary period at UT Austin, and they 18 sometimes differ. 19 Q. Largely because of the probationary extension? 20 A. There are several reasons that they could differ. 21 That certainly is one of them the probationary period 22 extension. And then if a faculty member has a leave of absence 23 without salary, that year would not count as a year of 24 probationary service. 25 Q. Okay. So those -- is it just two?</p>	<p>24</p> <p>1 A. Service, yes. The general guidelines for promotion 2 and tenure specify that an individual who has fewer than six 3 years in rank is considered accelerated, and so that is how 4 that determination is made. And the second part of your 5 question was? 6 Q. And let me -- let's get a clarification of the term 7 in rank. 8 A. Certainly. 9 Q. I understand there's some ambiguity from talking to 10 Dr. Fenvéz yesterday. There's in rank meaning as an assistant 11 professor at UT? 12 A. Yes. 13 Q. Then there's in rank as being an Assistant Professor 14 at UT and anywhere else? 15 A. In one's career. I would agree with that. 16 Q. Okay. 17 A. Our general guidelines are referencing years in rank 18 at UT Austin. 19 Q. Okay. So when you're talking about general guidelines 20 in term, in rank means at UT? 21 A. It does and we have since clarified that in the 22 general guidelines. 23 Q. Okay. So the question I was trying to get at was 24 counting you said the half year that she worked in the spring 25 of '14 was time and rank but not probationary service. In what</p>
<p>23</p> <p>1 A. The third one is a little different but a partial -- 2 it matters in her case, a partial year of employment. That 3 half year counts as a year in rank at UT Austin but that whole 4 year does not count as a year of probationary service because 5 these are counted in years not in half years. And I'm a little 6 in my corporate hat right now, aren't I? 7 Q. Well, it's kind of both. 8 A. Okay. 9 Q. It's kind of both, and I guess, yeah, I guess we 10 could start. That would be the second topic. But we're going 11 beyond that because we're talking about stuff outside that, the 12 probation. So the -- and just as a preview of things to come, 13 if you recall that you testified about something that's related 14 to one of the topics that I'm going to ask you later, you could 15 say, as I testified before. 16 A. Okay. 17 Q. Because you're kind of both in certain circumstances. 18 You have professional personal experience but then you're also 19 testifying as UT and I'm fine taking that testimony efficiently 20 by you saying what I said before, okay. 21 A. Thank you. Okay. 22 Q. Yes. 23 Q. What is the difference between or what's the 24 distinction between time and rank and how would that be used 25 versus year of probationary achievement or accounting?</p>	<p>25</p> <p>1 way would the time and rank be used in the promotional process 2 versus probationary service? 3 A. Okay. 4 Q. If at all -- if it all, if it's used at all? 5 A. Yes. So the time and rank is used to determine 6 whether the case is designated as accelerated or not. You can 7 also call that early or not. Accelerated is just the 8 terminology that we use. The probationary period years from a 9 process perspective, they -- an individual who has -- who is in 10 their 6th year at the time of review, their 6th year of 11 probationary service at the time of review has a different set 12 of outcomes than an individual who is not in their up or out 13 year also known as the 6th year of probationary service. 14 Q. I guess I'm still confused because wouldn't it be -- 15 well, why is it that time and rank determines whether it's 16 accelerated or not instead of the years of probationary service 17 that determines whether it's accelerated or not? 18 A. I don't know the answer to that question. That 19 decision for it to be -- for that to be the procedure in the 20 general guidelines was a procedure that I inherited in my role 21 not one I was part of developing. 22 Q. Let's do a for instance. Somebody starts half year 23 so that doesn't count on probationary service. They take a 24 leave without pay for another semester some other time. That 25 means that they have another half year of in rank but that</p>

<p style="text-align: right;">26</p> <p>1 whole year doesn't count for probationary service, right,  2 because it's a partial year?  3 A. Yes.  4 Q. Is that right?  5 A. Correct. A partial year of leave of absence would  6 mean that year does not count as a year of probationary  7 service.  8 Q. Okay. So then that person could be at six years of in  9 rank but five years -- well, four years of probationary  10 service. So if they went up for tenure it wouldn't be  11 accelerated because they were at six years in rank?  12 A. That's correct. It would not be designated as  13 accelerated nor would it be an up or out year.  14 Q. Okay. So the term accelerated is distinct from the  15 term early, or early doesn't even come into play?  16 A. In our general guidelines, we don't use the term  17 early. We use accelerated. I understand early and accelerated  18 to be used synonymously but as you mentioned, there can be a  19 lot of confusion and a lot of clarification of what one means  20 when one says accelerated or early.  21 Q. So which still leaves me with some confusion. So we  22 have the example I used which is six years in rank and four  23 years probationary service would not be accelerated, correct?  24 A. Correct, would not be designated as accelerated.  25 Q. So when -- if that person went up for tenure on that</p>	<p style="text-align: right;">28</p> <p>1 have been a lot.  2 Q. President Fennes gave us the number 800 for his time  3 as Provost and President. Would you be there longer than that  4 in the room or shorter than that?  5 A. Oh, I see, I have been in the room since he left the  6 university. I don't know if he was counting his cases when he  7 was Dean. Okay, Provost.  8 Q. Because he wasn't actual on the committee.  9 A. I don't recall if I had one year before him or not in  10 the committee room.  11 Q. So you could -- you could be exceeding 1,000 at this  12 point?  13 A. I suppose I could be.  14 Q. Okay. So that just gives us background to the wealth  15 of experience that you have in that observation position. Do  16 you have a general feel for the person's that come up for  17 tenure review that there are more like over 50 percent or less  18 than 50 percent people that are in their upper out year or are  19 in the other category?  20 MS. HILTON: Objection. Form.  21 A. Pardon?  22 MR. NOTZON: She said objection.  23 MS. HILTON: Oh, Carmen, at times I'll object to  24 the form and you can go ahead and answer the question. It just  25 for something later on with our report. You can go ahead and</p>
<p style="text-align: right;">27</p> <p>1 6th year of rank, there would be no need to explain the -- that  2 that's the term that's used right in the guidelines, is to  3 explain why the person is going up accelerated?  4 A. The general guidelines do not require an explanation  5 for an individual who is in their 6th year in rank though I  6 will say it's often provided.  7 Q. Because people are confused about the policy?  8 A. To make sure that every one is on the same page about  9 what the years in rank are and what the years of probationary  10 service are.  11 Q. Okay. So you see that frequently where somebody is  12 acting like they're accelerated when they actually have the  13 years in rank?  14 A. You mean by acting like they're accelerated?  15 Q. They're behaving and communicating as if they  16 understand that being at the 4th year of their probationary  17 status is accelerated or early when, in fact, they are in their  18 6th year in rank.  19 A. I'd say it's more of an acknowledgement that they are  20 not in their upper out year or mandatory review in the 6th year  21 of probationary period service.  22 Q. From your experience and I guess you must have been  23 in at this point thousands of the President's Committee  24 deliberations.  25 A. It would be interesting to count. Certainly there</p>	<p style="text-align: right;">29</p> <p>1 answer.  2 A. Thank you, Amy. I am uncomfortable giving an answer  3 about data for data that I haven't looked at closely. So  4 speaking as Carmen Shockley, it is my sense that more often  5 than not candidates are in that 6th year of probationary  6 service when they're being reviewed for their upper out year  7 though I'm not comfortable getting close to the 50 percent mark  8 with that.  9 Q. Okay, I'll take that. Just getting your seat of the  10 pants feel for it.  11 MR. NOTZON: Let's go ahead and take a short  12 break okay. How this works -- off the record.  13 (A recess was taken at 9:47 a.m.)  14 Q. (BY MR. NOTZON) Thanks for the break and again, if  15 you ever need one, you just let me know. Could you tell me the  16 names of the people that you recall being on the President's  17 Committee in that spring 2019 iteration?  18 A. Yes. I'm trying to recall if I recall correctly.  19 MR. SCHMIDT: Can we pause the deposition for a  20 moment? I'm having some issues on the recording side here.  21 (Technical difficulties. Brief pause in the  22 proceedings.)  23 Q. (BY MR. NOTZON) Waiting for you.  24 A. Thank you. The members of the President's Committee  25 that year were President Greg Fennes, Provost Maurie McInnis,</p>

<p>30</p> <p>1 the vice President for Research Dan Jaffe, the Dean of the 2 graduate school and Senior vice Provost for academic affairs 3 Mark Smith and the Dean of the undergraduate -- or Dean of 4 undergraduate studies Brent Iverson. 5 Q. Of those individuals, do you recall one or more of 6 them being a proponent or opponent of accelerated promotions 7 for tenure. 8 A. Just generally? 9 Q. Yes. 10 A. I can speak it generally for the committee, I 11 believe, on this topic, not for each individual. 12 Q. Right. 13 A. Okay. So generally, the committees -- I wouldn't 14 describe them as either proponents or opponents of accelerated 15 cases since every case is looked at on a -- for it's unique 16 merits and on a case-by-case basis. I'd say in general, my 17 understanding of the committees view was that we have a -- 18 what's referred to as a sort of normative time between reviews 19 so being at 6th -- for tenured specifically, being not earlier 20 than the 6th year in rank at UT Austin, and generally the 21 committee agreed that that was was the appropriate normative 22 time for a review not specific to anyone case, though -- 23 Q. Right, okay. And you're saying when I ask you to 24 identify if there was one or more of the members of the 25 committee that championed that issue more than others, you're</p>	<p>32</p> <p>1 option about whether that year counts or doesn't count, right. 2 So that's understood. And then individuals may take extensions 3 to the probationary period which they may also rescind and that 4 is understood. I think that's important context. That being 5 said, I recall in those conversations the President's Committee 6 asking of various cases. I don't remember the specific case. 7 Asking -- no, not asking -- acknowledging, right, those 8 variables. All that being said, I can't recall and don't think 9 I can speak for the President's Committee view on individuals 10 in their up or out year or not in their up or out year while 11 they have six years of rank -- in rank at UT Austin. 12 Q. Okay. So having been in the room for all these 13 conversations, you couldn't say that when someone came up that 14 was either accelerated or prior to their up or out year that 15 you could always count on doctor-such-and-such to raise that 16 and focus their attention on resolving that issue in their 17 participation and discussion? 18 A. I agree with what you just said. 19 Q. Involving -- let me do another add on category so we 20 have the accelerated, we have the prior to the up or out year 21 but not accelerated and those are involving UT time and work. 22 Let's add on the prior institution that they came from, be it a 23 peer or non peer institution and you'll let me know if that's 24 an issue as well from your understanding. Does that change 25 anything in the promotional tenure review process?</p>
<p>31</p> <p>1 not comfortable saying that meaning that you don't know or 2 you'd rather not say? 3 A. -- I don't recall there being a difference of opinion 4 between the committee members this matter. 5 Q. Okay. And let me go ahead and clarify the -- or maybe 6 ask it a slightly different way kind of the same question but 7 instead of saying accelerated, saying prior to the up or out 8 year because those are distinct categories, right? 9 A. They are. Yes, they are. Could you ask the question, 10 please, using that category? 11 Q. Sure. From your experience being in the room and 12 particularly in the iteration from the committee from two years 13 ago that you experienced in the spring of 2019, do you recall 14 any of the members being particular proponents or opponents of 15 someone going up for tenure in not their up or out year prior 16 to their up or out year which would then allow them to go up 17 again sometime later presumably? Yeah, that's the question. 18 A. Okay. I testified earlier about the different reasons 19 a person might not be in their up or out year and that number 20 of years might not be the same as the number of years in rank. 21 So I think that's important to keep in mind here because an 22 individual who goes -- for instance, who goes on leave of 23 absence to -- for professional reasons to take another -- for 24 professional reasons, therefore, that time is really still 25 continuing their faculty job for UT Austin doesn't have an</p>	<p>33</p> <p>1 A. I believe there is -- or I don't believe but I have 2 observed there being conversation about an individual's prior 3 years in a similar tenure status or tenure track status at 4 another institution being part of the conversations for various 5 candidates. 6 Q. Okay. And those are also referred to and that's where 7 the ambiguity comes in, I think, as time in rank, right? It's 8 time in rank but not at UT, but as an assistant professor 9 tenured track at another institution. Are -- is it your 10 understanding that the President's Committee reviews those 11 people as having sufficient time in rank, they combine the time 12 for the two institutions? 13 A. I believe they consider whether -- can you ask that 14 again, please. 15 Q. I'll try to ask it a different way. Is there any 16 distinction whether from the fact of the difference that you 17 know somebody spent two years at a prior institution tenure 18 track and four years at UT, is there a distinction in how that 19 time is handled in the promotional review process? 20 A. Thank you. I do believe there's a distinction in the 21 way those files are discussed, yes, acknowledging that an 22 individual within their whole career may not be accelerated in 23 terms of a career trajectory versus your second example where 24 it's an individual who has had fewer than six years in rank at 25 UT Austin without prior service. I do believe that distinction</p>



<p style="text-align: right;">34</p> <p>1 is made within the conversations that take place in the 2 President's Committee. 3 Q. And just to clarify, so the person would be 4 accelerated if only found in UT in rank time but when you count 5 the other time, they would meet the six-year in rank time 6 period, are once they consider the prior time, are they no 7 longer considered accelerated? 8 A. They are still considered accelerated on UT Austin's 9 -- by UT Austin's guidelines. 10 Q. So the question needs to be answered why now? 11 A. Yes. 12 Q. Okay. 13 A. That question does need to be answered. 14 Q. And the why now is an explanation, correct? That's 15 what the guidelines say? 16 A. Yes, to explain -- I don't know if it said justify at 17 that time. To explain and/or justify the reason for the 18 accelerated review, yes. 19 (Exhibit 38 identified.) 20 Q. Let me go ahead and put up Exhibit 38 which are the 21 guidelines for the relevant period I believe. Let me know when 22 you have it. 23 A. Thank you. I have them open. 24 Q. Okay. I think when you look at Page 3 -- well, first 25 confirm these are the right guidelines?</p>	<p style="text-align: right;">36</p> <p>1 state it's expected that that will be explained in the 2 department chair and Dean statements. Are you asking me if it 3 was failed -- if there was a failure to explain that in a 4 promotion case would that case still be reviewed? 5 Q. Or not, yes? 6 A. Or not. The answer is the case would still be 7 reviewed. 8 Q. Okay. 9 A. Even if a chair or Dean failed to give an explanation 10 for a review in their statement. 11 Q. Or a satisfactory explanation? 12 A. The case is still reviewed and part of that review is 13 the discussion with the President's Committee and if the 14 explanation given I suppose was less than satisfactory, that 15 would come up in that discussion between the Dean and the 16 President's Committee. 17 Q. From your experience and observation, did you see 18 that the people that came up accelerated -- and I want to stop 19 repeating this -- before six years in rank at UT, but just to 20 make sure that we're talking -- about the same thing that -- I 21 just forgot my question. 22 (Last question and answer read back.) 23 Q. I'm still blanking so let's move on. 24 So, Ms. Shockley, in the review of the tenure 25 file, did you see that -- or did you hear discussions that</p>
<p style="text-align: right;">35</p> <p>1 A. Yes, these are the right guidelines. 2 Q. Page 3 of the document and A3-B? 3 A. Yes, that's what I'm looking at. 4 Q. Okay. And it says explain? 5 A. Explain. Yes, thank you. 6 Q. And you see that as a different standard than 7 justify? 8 A. I'm not sure I know what you mean by that question. 9 Q. Do you see those as two different ideas of what is 10 required to satisfy an accelerated tenure year? 11 A. Okay. Certainly they're different words. I have a 12 feeling when I use them as I did earlier in my testimony, I'm 13 not thinking of them as vastly different standards. 14 Q. Okay. When they're applied, are they a separate 15 question that must be answered like a box must be ticked and if 16 that box isn't ticked we can't go onto the review of the 17 qualifications of the candidate or is it part of the 18 qualifications of the candidate? 19 A. I'm sorry, I don't understand your question. 20 Q. Is it possible that when someone is coming up for 21 tenure review in an accelerated status as not both before six 22 years at UT in rank, that if they don't have a sufficient 23 explanation, not justification but explanation, that they would 24 not -- their case would not be ready to be reviewed? 25 A. I think I understand, thank you. The guidelines</p>	<p style="text-align: right;">37</p> <p>1 there needed to be, if the case was accelerated, that the 2 person had to have higher qualifications? So if it's one year 3 accelerated higher qualifications than if it was an up or out 4 year, or if it was two years early they had to have even more 5 qualifications? 6 A. This is where the distinction between early in one's 7 career -- accelerated in one's career versus accelerated on the 8 -- on UT Austin's clock. This is one of the places where that 9 distinction would be part of the conversation because for a 10 person accelerated in their career where their years in rank at 11 UT Austin also matched their years as a tenured track faculty 12 member at any institution there would be an expectation that, 13 that individual would -- I don't know if I would use the words 14 higher standard but that, that individual would demonstrate 15 enormous strengths in their productivity, research and other 16 aspects that are reviewed in a promotion case. When an 17 individual is -- does that answer your question? Let me stop 18 there. 19 Q. I think so and you're saying in the category of 20 before six years in rank at UT and before six years in rank 21 anywhere? 22 A. As a tenured track faculty member at another 23 institution, yes. As I mentioned earlier or testified earlier 24 that that distinction would be recognized and discussed for 25 those faculty members, for those candidates.</p>

<p>38</p> <p>1 Q. And that's separate and apart -- that would not --</p> <p>2 that discussion wouldn't apply if the person had the time and</p> <p>3 rank of six years or more at UT and somewhere else?</p> <p>4 A. I think -- so I think it may help to explain this in</p> <p>5 one other way. As we saw in the guidelines, those cases</p> <p>6 considered before the six year in rank at UT Austin must be</p> <p>7 explained. One of -- or a part of that explanation or that</p> <p>8 whole explanation could be well, that person has prior years as</p> <p>9 a tenured track faculty member at another institution so that's</p> <p>10 where it comes into a discussion and into the -- well, into the</p> <p>11 discussion is in considering the explanation.</p> <p>12 Q. Okay, so I think that helps and maybe it creates</p> <p>13 categories of conversation, let me propose my understanding of</p> <p>14 what you're saying is you have a candidate that goes up for</p> <p>15 tenure six years in rank at UT, six years probationary status</p> <p>16 at UT, up or out year, they're discussed, there's no need to</p> <p>17 talk about why they're accelerated or anything like that,</p> <p>18 that's not part of the discussion, it's just about do they meet</p> <p>19 the standard for tenure, correct?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. That would be one category of people. The next</p> <p>22 category of people would be somebody that has six years in rank</p> <p>23 at UT, is not accelerated but still is not in their up or out</p> <p>24 year. That conversation is going to be pretty similar to the</p> <p>25 first category?</p>	<p>40</p> <p>1 have to say I have to make that additional decision which --</p> <p>2 A. Yes.</p> <p>3 Q. -- would not happen.</p> <p>4 A. Yes.</p> <p>5 Q. Which wouldn't happen in the first category because</p> <p>6 it's already assumed a no tenure is terminal appointment.</p> <p>7 A. In the first category where someone is in their</p> <p>8 mandatory review year, yes. Do not promote is not an option in</p> <p>9 that case.</p> <p>10 Q. Have you ever seen the President issue a terminal</p> <p>11 appointment for a non route year?</p> <p>12 A. Yes. I don't recall if we have one or two examples</p> <p>13 of that in my time in the Provost office but yes.</p> <p>14 Q. But not with President Fenves?</p> <p>15 A. I don't recall in the second one I'm thinking of who</p> <p>16 was the President.</p> <p>17 Q. Okay. Did those examples, did they result in a</p> <p>18 separation or --</p> <p>19 A. Not really, no.</p> <p>20 Q. Okay. They did a final argument and it was over</p> <p>21 turned?</p> <p>22 A. I'd have to look at those two records specifically</p> <p>23 because I don't recall if -- well, it would have been terminal</p> <p>24 appointment. They would have had the option to have final</p> <p>25 arguments. I don't recall if they did or not or if they were</p>
<p>39</p> <p>1 A. I'm making sure I understand that example. In rank,</p> <p>2 not up or out?</p> <p>3 Q. Not accelerated and not up or out.</p> <p>4 A. Yes, that is a category. I would say that's a</p> <p>5 category of conversations, yes.</p> <p>6 Q. And that conversation is going to be not unlike the</p> <p>7 first category of up or out?</p> <p>8 A. I would agree with that.</p> <p>9 Q. Okay. There's no reason to talk about anything else,</p> <p>10 right? The only difference, would you agree the only difference</p> <p>11 of that second category is that when it comes time if there's a</p> <p>12 denial from the President's Committee, the rules say no final</p> <p>13 argument, no reconsideration by the President's Committee?</p> <p>14 A. So in that second category the President -- the</p> <p>15 second category being the individual has six years in rank at</p> <p>16 UT Austin the individual has four years that are designated as</p> <p>17 probationary service. The President may decide to promote.</p> <p>18 The President may decide a terminal appointment in that case or</p> <p>19 do not promote. If the President's decision is terminal</p> <p>20 appointment then the individual may submit final arguments.</p> <p>21 Q. Okay?</p> <p>22 A. Okay. So terminal -- final arguments are allowable</p> <p>23 when a candidate has a terminal appointment.</p> <p>24 Q. Okay. So even then, they might even be exact, the</p> <p>25 conversation would be exact with them but I guess they'd still</p>	<p>41</p> <p>1 put forward for reconsideration in their terminal year which is</p> <p>2 a separate process that could -- can result in promotion.</p> <p>3 Q. Okay.</p> <p>4 A. Okay.</p> <p>5 Q. All right. So let's -- we're going down the</p> <p>6 categories of discussions that would happen. So the third</p> <p>7 category would be that they have six -- they have four -- they</p> <p>8 have less than six years at UT but they have sufficient years</p> <p>9 at the prior institution to make six or more years in rank</p> <p>10 total. Of course, they wouldn't be in their up or out year at</p> <p>11 that point?</p> <p>12 A. Uh-huh.</p> <p>13 Q. So would that be a third category?</p> <p>14 A. Certainly a third category of candidate.</p> <p>15 Q. Because there would have to be a discussion of their</p> <p>16 prior service?</p> <p>17 A. There would be, yes, I agree with that.</p> <p>18 Q. And it would have to be viewed as acceptable? Right,</p> <p>19 to the committee, that their prior service combined with UT</p> <p>20 service is sufficient to warrant consideration that the</p> <p>21 explanation of accelerated would be satisfied by it or have to</p> <p>22 be satisfied by it.</p> <p>23 A. I would say it would be acknowledged that that is an</p> <p>24 explanation for an accelerated review at UT Austin.</p> <p>25 Q. And from your experience, you've seen that that is</p>



<p style="text-align: right;">42</p> <p>1 the reason why -- the reason given, explanation for the  2 accelerated review of --  3 A. I have seen that reason.  4 Q. Multiple times?  5 A. I have seen that reason given by Chairs and Deans.  6 That explanation, rather, given in Chair and Dean statements  7 for candidates, yes.  8 Q. And I understand from my review some of the documents  9 that one of the reasons that that is a common explanation is  10 that there is a -- I think it's called Provost strategy to  11 recruit faculty that are at other institutions that are already  12 have years in rank at those other institutions, is that  13 correct?  14 A. I'm not familiar with the document you're describing.  15 Q. It's not a title. It's in some documents I've read  16 in this case that the Provost has indicated a preference or  17 support for recruiting faculty that have time in rank already  18 when they come to UT.  19 A. I have certainly observed the Provost supporting that  20 type of hire as well as other types of hires where that  21 wouldn't be the case.  22 Q. Yeah, it's not an only thing but it's an additional  23 recruitment tool.  24 A. Additional? By additional recruitment tool, what do  25 you mean?</p>	<p style="text-align: right;">44</p> <p>1 recruitment tool have that's what I was talking about.  2 A. I would agree that -- let me start a little  3 differently. It's hard for me to speak to the various ways  4 department Chairs and Dean's negotiate with faculty recruits  5 just because that is not part -- I'm not part of those  6 conversations so that's hard for me to speak to?  7 Q. Okay, no problem. If you're not aware of that then  8 that's no problem.  9 A. Thank you.  10 Q. Okay. And then let's say this is the last category  11 there's probably many more categories but there's the person  12 who has the tenure candidate who has less than six years  13 probationary status, less than six years in rank at UT and does  14 not have either has zero other experience or insufficient time  15 in rank at a prior institution to get to six years. So it's  16 accelerated to UT and it's accelerated so it's kind of like  17 accelerated squared or double early or whatever. That's a  18 different category of conversation?  19 A. I would agree with that. What I would agree with is  20 that that would certainly be acknowledged and a category of  21 conversation.  22 Q. Okay. And from what you were saying earlier, it  23 sounded like that's the category of people that there would be  24 a discussion that, hey, this guy has got to be -- this guy or  25 gal has got to be exception?</p>
<p style="text-align: right;">43</p> <p>1 Q. That someone who is recruited that's already teaching  2 and already on a tenure clock somewhere else that they're  3 recruited to come to UT and told that it is possible that their  4 time at the prior institution could be used to count for the  5 time in rank to go up for tenure at the candidate's discretion  6 along with the Chair?  7 A. Certainly can be used as an explanation, yes.  8 Q. But I'm talking about it's also used as a  9 communication to the candidate during the recruitment?  10 MS. HILTON: Objection. Form.  11 A. Would you be willing to rephrase that question for  12 me, please?  13 Q. No. No problem. So when you answered the last  14 question, you said certainly it's an explanation. I understood  15 that to be satisfying the guidelines for tenure review which  16 requires an explanation for accelerated review and my question  17 wasn't about that it was about when in terms of Provost  18 supporting recruiting faculty that already had experience in  19 rank somewhere else, that the candidate, the recruiting  20 candidate is told that, we want you to come to UT and if you so  21 choose, it's possible to count your time at your prior  22 institution as time in rank so that you could go up at six  23 years combined time and not have the wait the entire six years  24 at UT as an option. It's not a guarantee or anything like that  25 but they're told that. Do you understand that? It's a</p>	<p style="text-align: right;">45</p> <p>1 A. Yes, I would agree with that.  2 Q. Okay.  3 A. Yeah, I think I phrased it as I don't quite remember  4 what my testimony was on that but yes I refer to my earlier  5 testimony.  6 Q. She has it. It's in the can as it will.  7 A. Thank you.  8 Q. All right. So that is what I wanted to to is to try  9 to get what you said before in those -- in that way and talk  10 about it in terms of categories. Would you say that, that  11 additional expectation of the qualifications of the candidate  12 is only relates to that fourth category or is it -- does it  13 apply to any of the other categories as well?  14 A. I want to be clear on what we're saying or what  15 you're asking would apply to the fourth category.  16 Q. What are you looking at on the side there?  17 A. Oh, I wrote down the four categories.  18 Q. Okay. Okay. All right.  19 A. Sorry.  20 Q. That's okay.  21 A. Just so that I could keep up with the four examples.  22 So in all cases for tenure at UT Austin, there is an  23 expectation of demonstrated excellence, impact and a future  24 trajectory which is aligned with that of a tenured associate  25 professor at UT Austin. So that is part of the conversation in</p>

<p>46</p> <p>1 all categories I think, and I want to say that -- I would say  2 certainly the vast majority of conversations I've observed with  3 the President's Committee all files have strengths and  4 weaknesses that are assessed. It's been my observation that  5 the category of faculty who are accelerated -- and I'm still  6 looking at my four things -- who are accelerated in terms of  7 their time and rank at UT Austin being fewer than six years and  8 they don't have time at other institutions as a tenured track  9 faculty member that in that case, there is -- they're  10 especially looking for those strengths to far outweigh any  11 weaknesses. I believe in the other three categories and I'm  12 looking at them carefully -- I'm not sure that I have observed  13 the other three categories having a great difference in the way  14 that they are discussed in attempts of strengths and weaknesses  15 and the resulting decision. It's a hard question to answer  16 because each case is so unique and so I am trying to provide  17 helpful generalizations based on my observations, but yes, but  18 it's so unique.  19 Q. Okay. I didn't want to interrupt.  20 A. I'm sorry.  21 Q. Oh, no. Okay so I'm going to throw you a little  22 curve ball. So would that -- would your answers still be the  23 same if I have the added component of the time, the third  24 category where they have time at the other location that  25 satisfies the six years when combined with UT time and rank</p>	<p>48</p> <p>1 Austin but they are not up or out. I believe that was our  2 second category. In both of those categories because it is not  3 a mandatory review, the university has the option to, if there  4 are -- if there are weaknesses in the file that are weighing  5 heavily against the strengths and so on balance it's not a  6 clear decision what's in the best interest of the university  7 and both of those categories the university has the option to  8 wait and see if those concerns can be resolved. And if that's  9 the case and a do not promote decision comes from the  10 President, then it would -- this is really speaking as Carmen  11 Shockley, it would be my hope those candidates come up again  12 having addressed those concerns ultimately hope every candidate  13 is successful for tenure.  14 Q. So and just to clarify that answer and that was a  15 great answer. It clarifies that portion. It's not that they  16 have to show more qualifications like the fourth category.  17 It's just that there's a safety outlet for the President's  18 Committee to not have to make the -- jump off the cliff  19 decision of the up or out that if there's any question, they  20 can err on the side of caution and kick the can down the road  21 as it would?  22 A. Yes, yes, if they don't -- if they're not yet  23 convinced it's in the best interest of the university to tenure  24 that individual they have the option to wait.  25 Q. Okay.</p>
<p>47</p> <p>1 that UT wouldn't necessarily have as close an eye on their  2 performance in that period of time that would cause them to  3 want the demonstration of excellence be greater at UT, the UT  4 portion?  5 MS. HILTON: Objection. Form.  6 Q. When compared with the other first two categories.  7 A. I understand we're talking about the category where  8 there are less than six years in rank at UT Austin as a tenured  9 track Assistant Professor, that that individual has had time as  10 a tenured track Assistant Professor at another institution, and  11 they are not up or out. Okay. I understand we're talking about  12 that category. I'm sorry, I don't understand from your question  13 is what about that category.  14 Q. Is the fact that the UT people, the President's  15 Committee considering this case, don't or feel that they might  16 not have the level of comfort with the performance of the  17 candidate because they only have X years at UT and didn't  18 really -- weren't there for the prior years or there's  19 something about their prior experience that would cause group  20 three to inch up a little bit and have to show a little bit  21 more to get to tenure than the first two categories and a  22 little bit less than the fourth category.  23 A. So I believe there are some similarities or I've  24 observed some similarities between this category and the  25 category of candidates where there are six years in rank at UT</p>	<p>49</p> <p>1 MR. SCHMIDT: Robert if you're at a stopping  2 point can we take a quick break?  3 MR. NOTZON: Sure, sure.  4 (A recess was taken at 10:40Â a.m.).  5 Q. (BY MR. NOTZON) Ms. Shockley, wanted to ask you about  6 the -- one more question about the President's Committee  7 consideration of Dr. Nikolova. Do you recall anything about  8 what Dean Wood's participation was in that discussion?  9 A. I can't recall any -- her participation. She was  10 present for the discussion and participated in the discussion  11 with the President's Committee, I recall that. Do you mean  12 anything beyond that?  13 Q. If you recall. You know, she's the sole dissenting  14 vote or recommendation that gets Dr. Nikolova from some very  15 strong votes below her, and I would think that you know there  16 would be some distinction of her presentation about Dr.  17 Nikolova that was kind of different than others because of the  18 unanimous vote of her committee at the college level.  19 A. I don't recall the specifics of the conversation with  20 Dean Wood.  21 Q. All right. And then, you had mentioned that you don't  22 take notes of the discussion or the reasoning behind the  23 decision and I was wondering if you know why that is?  24 A. I suppose I don't.  25 Q. Okay. In the promotional process which you're</p>

<p>50</p> <p>1 familiar with, you've worked in it for many years, the dossier  2 is in writing, the chair, the budget counsel's vote is  3 recorded, documented, the chair is to write a statement about  4 the -- explaining the support for the Budget Council's vote,  5 the pros and cons, the positives and negatives of the file and  6 explaining any abstentions and absences. And then the P&amp;T  7 Committee's discussion, the vote is documented and the Dean is  8 supposed to write, in this case, her own assessment as well as  9 fairly documenting the P&amp;T's position and explaining their  10 vote.</p> <p>11 And so there's quite a bit of written record  12 that people can look at to rely on but when it comes to the  13 actual decision and discussion and the reasons for granting  14 tenure or not granting tenure or the whatever available options  15 there are to the President, that isn't written down so that  16 nobody really knows why that happened. Would that be accurate?</p> <p>17 MS. HILTON: Objection. Form.</p> <p>18 A. It is accurate that the individuals and the  19 committees that you noted provide -- or there is a recorded  20 vote or there are statements that are written at the  21 department, committee department chair and Dean level. That is  22 accurate.</p> <p>23 Q. The last part, nobody who wasn't in the room would  24 know -- well, actually, even if you're in the room, you  25 wouldn't necessarily know why the President decided what the</p>	<p>52</p> <p>1 about it because neither of those are guaranteed, correct?  2 A. I suppose that is true. Yes, it would -- yes.  3 Q. Whereas, if it's written down, we don't have to rely  4 on anybody's memory and we don't have to rely on anybody's  5 honesty because historically we know what happened.  6 A. I see. It would be relying on something different,  7 yes.  8 Q. And were you ever told why -- well I'm assuming you  9 were told you're not allowed to take notes or record any of the  10 discussions that go on in the presence of this committee, is  11 that correct?  12 A. I don't recall being told I'm not allowed to. When I  13 was learning that part of the position from the individual who  14 sat in that seat before me, it wasn't part of what I was  15 trained to do, so to speak, being told these are your  16 responsibilities in the meeting. I was not asked or told one  17 of my responsibilities would be to take notes on the merits of  18 the file.  19 Q. Okay. So when you were told what to do nobody said  20 record or write down everything or explain why but your  21 testimony is they also didn't tell you not to?  22 A. I don't recall being told not to write notes.  23 Q. Well, you write notes about the stuff that relates to  24 process --  25 A. Yep.</p>
<p>51</p> <p>1 President decided because it's not explained in writing.  2 A. It is -- I agree that it is not explained in writing.  3 Q. And just to complete that thought, historically, you  4 can't go back and say you said you denied tenure for these  5 reasons, A, B, C, D, E, or you didn't. You can't do that  6 because there is no documented explanation for the decision?  7 A. That is correct that there would not be a documented  8 explanation to refer to. That would be -- that's correct.  9 Q. And when you do hundreds of these at a time, it would  10 be difficult to testify that you remember what happened and the  11 reasoning if you don't write it down?  12 A. I guess that would -- that would vary depending on  13 the individual's memory and what they typically can and can't  14 recall but it's truly based on an individual's memory.  15 Q. Memory and honesty?  16 MS. HILTON: Objection. Form.  17 A. Can you ask that a different way, please.  18 Q. Sure. So sitting here two years -- over two years  19 later and finding out why Dr. Nikolova was denied tenure by the  20 President and the President's Committee and whatever the  21 reasonings were discussed there and whatever formed the basis  22 for the denial there has to be memory but there also has to be  23 honesty, that whatever anybody who was in that room testifies  24 to about what happened and why, they'd have to -- they'd  25 actually have to remember what happened and then tell the truth</p>	<p>53</p> <p>1 Q. Your process of writing notes but you don't write  2 notes about the decision making or the reasoning. So it seems  3 like you are making a conscious decision not to write about  4 those other things that are going on around you and picking out  5 items that don't relate to the specific promotional decision.  6 A. Because I understand my role and reason for being  7 there to -- because of the way in which I understand that role  8 to write down the decisions that are made so that those can  9 then be put into a letter and to write down -- make note of the  10 ideas that come up as I mentioned -- as I testified earlier for  11 process improvements, general guidelines improvements,  12 potential presentations to different groups on campus. So it's  13 more of an understanding of what my role is which I think I  14 have a good understanding of rather than directives about what  15 I'm not supposed to do just as I know I'm not supposed take a  16 phone call during that meeting, or that that would be contrary  17 to the expectation of me being there. No, I haven't been asked  18 to record notes on merits of the individual files.  19 Q. Not my job. That's not part of my job description?  20 A. That's true.  21 (Exhibit 45 identified.)  22 Q. Okay. Let me go ahead and put up another exhibit. So  23 this will be Exhibit 45.  24 A. I've opened it up and I was going to take a moment to  25 familiarize myself with it.</p>

<p style="text-align: right;">54</p> <p>1 Q. Yes. Just let me know when you're ready.</p> <p>2 A. Thank you.</p> <p>3 (Brief pause in the proceedings.)</p> <p>4 A. Okay, thank you. I was able to read it.</p> <p>5 Q. Okay. So this would have been another time -- and I'm</p> <p>6 not trying to got you or anything -- this would have been</p> <p>7 another time that you would have been notified of Dr. Nikolova</p> <p>8 having a complaint of discrimination. Would that be accurate?</p> <p>9 A. Sorry, I do not recall this e-mail before looking at</p> <p>10 it just now but, yes, I received this e-mail.</p> <p>11 Q. Okay. And do you recall if -- so you're copied on</p> <p>12 your supervisor's e-mail to Dean Wood. Was that the first time</p> <p>13 you were brought into this or were you also copied, because you</p> <p>14 can't tell from Dean Wood's e-mail who she wrote it to besides</p> <p>15 it being to Ms. Dukerich.</p> <p>16 A. That's true. I don't recall if I was copied on Dean</p> <p>17 Wood's e-mail on September 6 at 3:49 in the morning.</p> <p>18 Q. And then -- yeah. And then 12 hours later that</p> <p>19 you're there. Did you participate in that conversation?</p> <p>20 A. I don't recall. I'd to have look at my calendar.</p> <p>21 Q. Okay. And I guess what I'm asking is, do you recall</p> <p>22 what happened in the conversation if you were there and you</p> <p>23 don't even remember being there?</p> <p>24 A. That's correct. I'm sorry.</p> <p>25 Q. No, no, that's an answer. I just want to know what</p>	<p style="text-align: right;">56</p> <p>1 faculty member brings about a grievance against another faculty</p> <p>2 member or administration, or the few lawsuits that have come</p> <p>3 about, I have been aware of those and had conversations about</p> <p>4 them that is typical for my job. But I'm sorry, I don't recall</p> <p>5 specific conversations that took place.</p> <p>6 Q. Okay. So you can't -- you can't name one person that</p> <p>7 you had a conversation with? You can't name anything about</p> <p>8 conversations about Dr. Nikolova's lawsuit at all? No?</p> <p>9 A. Outside of -- I think your question was specific to</p> <p>10 outside of conversations with UT legal.</p> <p>11 Q. Yes.</p> <p>12 A. That is correct what you just said.</p> <p>13 Q. Are you aware of any other lawsuits against UT that</p> <p>14 relate to gender or pregnancy bias or discrimination besides</p> <p>15 Dr. Nikolova?</p> <p>16 A. Specific to gender or pregnancy? I mean, I don't know</p> <p>17 the specific basis for --</p> <p>18 Q. Or retaliation?</p> <p>19 A. Or retaliation. I believe that, if I recall, I don't</p> <p>20 know if I'm recalling correctly that Karen Pagani, another</p> <p>21 faculty member who is an Assistant Professor who was not</p> <p>22 tenured brought a lawsuit that may have had gender</p> <p>23 discrimination and retaliation but I'm not familiar enough with</p> <p>24 those -- the claims in her lawsuit to speak to that.</p> <p>25 Q. Okay. Did you testify in that lawsuit?</p>
<p style="text-align: right;">55</p> <p>1 you know and what you remember.</p> <p>2 A. Sure, okay.</p> <p>3 Q. So does this refresh your recollection that the</p> <p>4 lawsuit was -- this is the first time you learned of the</p> <p>5 lawsuit from Dr. Nikolova?</p> <p>6 A. I don't know. I don't recall if I was notified in</p> <p>7 some other way prior to this. I don't know.</p> <p>8 Q. Okay. You ever been -- other than to give your</p> <p>9 testimony today, related to preparing as a corporate rep, did</p> <p>10 you have any other conversations regarding the lawsuit from Dr.</p> <p>11 Nikolova with anyone that wasn't an attorney?</p> <p>12 A. I don't recall specific conversations or specific</p> <p>13 dates where conversations took place.</p> <p>14 Q. So you think you were part of conversations but you</p> <p>15 don't recall when and where?</p> <p>16 A. That is correct. That's a fair thing to say I'd</p> <p>17 agree.</p> <p>18 Q. What do you recall?</p> <p>19 A. Pardon me?</p> <p>20 Q. What do you recall about those conversations if</p> <p>21 anything?</p> <p>22 A. When -- I don't recall specific conversations about</p> <p>23 or when those conversations took place or who they took place</p> <p>24 with about this. I feel like conversations are likely to have</p> <p>25 happened because in my role in the Provost office, when a</p>	<p style="text-align: right;">57</p> <p>1 A. I did not.</p> <p>2 Q. Okay. Do you know if it went to trial?</p> <p>3 A. I do know that it went to trial.</p> <p>4 Q. Do you know what the result? In other words, did she</p> <p>5 win or did UT win?</p> <p>6 A. Okay, I know that. I'm trying to think of very</p> <p>7 specific things. I believe UT Austin I guess won I'm not sure</p> <p>8 if that's the proper terminology for me to use but the finding</p> <p>9 was for UT Austin.</p> <p>10 Q. Okay.</p> <p>11 A. Yeah.</p> <p>12 Q. You're not aware that she won the retaliation claim?</p> <p>13 A. Well, that is what I was trying to think of that I</p> <p>14 believe there were four -- I recall that there were four -- I</p> <p>15 don't know, I'm sorry I'm not going to use the proper legal</p> <p>16 terms here but that there were four maybe judgments that the</p> <p>17 jury returned a decision on, three of which were found or UT</p> <p>18 Austin, one of which was found for professor Pagani I and that</p> <p>19 it had to do with retaliation but I don't know the specific</p> <p>20 judgment.</p> <p>21 Q. Okay. Any other complaints or lawsuits related to</p> <p>22 gender, pregnancy or retaliation that you can recall besides</p> <p>23 Pagani?</p> <p>24 A. Besides that one? I cannot recall the specific I</p> <p>25 guess terms of the lawsuits that have been brought in the --</p>

<p>58</p> <p>1 any other ones that I might be aware of.</p> <p>2 Q. Okay. Have you testified in any other lawsuits?</p> <p>3 A. No, I have not.</p> <p>4 (Exhibit 46 identified.)</p> <p>5 Q. Let me pull up another exhibit. This will be 46.</p> <p>6 A. All right. I've opened it up I'm going to read</p> <p>7 through it to familiarize myself.</p> <p>8 (Brief pause in the proceedings.)</p> <p>9 A. Okay, thank you. I've read through the document.</p> <p>10 Q. Okay. You're not on this e-mail chain but you're</p> <p>11 referenced by Dean Wood about next steps. Do you recall being</p> <p>12 consulted about this communication from Dr. Nikolova, the final</p> <p>13 arguments letter?</p> <p>14 A. I recall, in terms of Dr. Nikolova and her promotion</p> <p>15 file and the final arguments process, I do recall there being</p> <p>16 question about whether she was based on the outcome of her case</p> <p>17 if final arguments would be considered from her. If I recall</p> <p>18 conversations and e-mails about that with -- I don't recall the</p> <p>19 specific days and times but I recall conversations with Janet</p> <p>20 Dukerich, with Sharon Wood, and with Professor Nikolova. There</p> <p>21 may have been other conversations but those are the ones I</p> <p>22 recall. I don't recall if professor -- Dr. Dukerich and Dean</p> <p>23 Wood and I had a conversation, the three of us or not.</p> <p>24 Q. Okay. If you see the e-mail chain communications,</p> <p>25 Professor Twefik forwards this to Dean Wood, and Dean Wood</p>	<p>60</p> <p>1 (Brief pause in the proceedings.)</p> <p>2 A. Thank you for that time. I've read it.</p> <p>3 Q. Okay. And again you're not copied on this e-mail but</p> <p>4 you're referenced as having conversations with Dr. Nikolova.</p> <p>5 Do you remember the context of those conversations that she</p> <p>6 references?</p> <p>7 A. I remember talking with her during this time period,</p> <p>8 certainly.</p> <p>9 Q. Would it be your job to let her know of the deadline</p> <p>10 to withdraw her consideration and also let her know of the</p> <p>11 potential threat of a terminal appointment in her situation?</p> <p>12 A. Certainly it would be my job as I testified earlier</p> <p>13 to answer questions from candidates and so being asked a</p> <p>14 question about when a candidate could withdraw their promotion</p> <p>15 dossier would be my job to answer. In a non-reviewed --</p> <p>16 non-reviewed -- in a non-mandatory review or up or out review,</p> <p>17 a candidate has the option to withdraw their file any time</p> <p>18 before it goes to the President's Committee. And since I'm</p> <p>19 aware of when they go to the President's Committee, I would be</p> <p>20 able to give her that deadline or give a candidate that</p> <p>21 deadline. It would also be my job to answer any questions</p> <p>22 about possible outcomes referencing the charter recommended</p> <p>23 actions document on the Provost website that I mentioned or</p> <p>24 testified about earlier.</p> <p>25 Q. Okay. And just to clarify it's your job to answer</p>
<p>59</p> <p>1 comments on the extensive research that Dr. Nikolova did. And</p> <p>2 then Dr. -- Professor Twefik asks about whether she had access</p> <p>3 to the promotion file. And then Dean Wood asking about or</p> <p>4 assuming that or positing that Dr. Nikolova must have done</p> <p>5 Freedom of Information requests or somebody else did, and then</p> <p>6 Professor Twefik saying that's problematic.</p> <p>7 Were any of those issues what Dean Wood was</p> <p>8 consulting with you about that Dr. Nikolova may have had</p> <p>9 inappropriate access to promotional files of other professors?</p> <p>10 A. I don't recall discussing that at all.</p> <p>11 Q. Would you agree that it's problematic the information</p> <p>12 that Dr. Nikolova had and used in her final arguments</p> <p>13 discussion?</p> <p>14 MS. HILTON: Objection. Form.</p> <p>15 A. I have -- if she filed Freedom of Information Acts or</p> <p>16 Freedom of Information requests, or open records requests is</p> <p>17 how I typically I refer to them, and received documentation as</p> <p>18 a result of that and used that information in her final</p> <p>19 arguments, I do not find that problematic.</p> <p>20 Q. Okay. That's a public record and anyone in -- that's</p> <p>21 a citizen could have access?</p> <p>22 A. Certainly.</p> <p>23 Q. Okay. Next one.</p> <p>24 A. I have opened this one. I'm going to scroll down and</p> <p>25 familiarize myself. Oh, it's short. Just take me a moment.</p>	<p>61</p> <p>1 questions. Is it also your job to affirmatively communicate to</p> <p>2 the candidate without them approaching you to ask questions?</p> <p>3 A. Do you mean would it be my job to reach out to a</p> <p>4 candidate with information without having been asked a</p> <p>5 question?</p> <p>6 Q. Yes.</p> <p>7 A. Okay. One point of the process comes to mind where</p> <p>8 yes that is my job after the President's decisions have been</p> <p>9 made known to the Deans and candidates have been informed of</p> <p>10 the final outcome, I contact any candidate via e-mail who has</p> <p>11 either a terminal appointment pending or a decision of do not</p> <p>12 promote to outline procedural next steps and resources that</p> <p>13 they are eligible to avail themselves of. That's one example</p> <p>14 that comes to mind.</p> <p>15 (Exhibit 47 identified.)</p> <p>16 Q. Okay. So only after the President's decision but I</p> <p>17 guess at this point with where we are in the timeline for Dr.</p> <p>18 Nikolova and exhibit -- 47 is this exhibit, 862, Exhibit 47 is</p> <p>19 at the point after the Dean has informed Dr. Nikolova that</p> <p>20 she's recommended against tenure, you don't have any role to</p> <p>21 play other than just field questions that come to you?</p> <p>22 A. Nothing is coming to mind in terms of our process</p> <p>23 steps at this point, though I can't say that I've never reached</p> <p>24 out to a candidate.</p> <p>25 Q. If a candidate calls you and asks questions, do you</p>



<p style="text-align: right;">62</p> <p>1 go beyond the answer to their question and provide them with  2 other information that you might have that you think they might  3 want to know?  4 A. I think, yes, that is -- yes, that could happen in a  5 conversation with a candidate.  6 Q. Okay. I'm sorry, I didn't want to interrupt. Are you  7 finished?  8 A. Yes.  9 Q. If -- do you recall if in this instance all these  10 issues that Dr. Nikolova is outlining in her e-mail, No. 1,  11 that she called you to ask questions and, No. 2, you provided  12 her this information, whether she asked for it or not?  13 A. It's my recollection that she asked to speak with me.  14 We had several e-mail exchanges over the course of the year in  15 which she went under review. I don't recall on each of these  16 points, specific to each point whether it was a question that  17 prompted my answer or I provided her additional information  18 during that call. The -- I'll also say that the paragraph  19 where it says Carmen confirmed a case that happened some years  20 prior, I don't recall that part of the conversation and I'm not  21 sure which case that is referring to.  22 Q. Okay.  23 A. What gives me pause is that the part where it says  24 the department successfully pushed back to change that to not  25 promote. I'm not sure what case that is referring to.</p>	<p style="text-align: right;">64</p> <p>1 Q. What do you recall about the terminal appointment  2 when it wasn't an up or out year?  3 A. So I recall that fact that it was a terminal  4 appointment when it was not an up or out year. I recall that  5 ultimately the candidate was reviewed again -- or candidates if  6 there were two -- reviewed again and were promoted with tenure.  7 I don't recall a terminal appointment being changed to a do not  8 promote. I just don't recall it. I'd have to look back at our  9 promotion records to verify that.  10 Q. Do you recall if the terminal appointment was changed  11 to tenure?  12 A. I recall that there was a decision of terminal  13 appointment, and then later following another review, a  14 decision to promote with tenure.  15 Q. So of the two terminal appointments that weren't up  16 or out years, one ended up with a promotion on further review  17 and one didn't?  18 A. I'm really -- I should only be speaking about the one  19 I'm recalling since the other one was a reference, right, to  20 something I'm not quite certain about. So what you've just  21 described I recall about one of the cases and I cannot recall  22 the details of the other case.  23 Q. Okay.  24 A. Yeah.  25 Q. And then does anything else in this e-mail strike you</p>
<p style="text-align: right;">63</p> <p>1 Q. Okay. And earlier you testified that there were I  2 think you said two terminal appointments when it was not the up  3 or out year?  4 A. Yes.  5 Q. And that did not result in terminal appointments so  6 clearly you remember that something happened of that nature but  7 this is not something you remember or --  8 A. I think what would be happening here is the  9 terminology being used.  10 Q. Okay.  11 A. So because -- yes, my earlier testimony that I do --  12 about the two -- I believe I said I recall one and I think  13 there was a second one may be what's being referenced here and  14 it may be a problem with terminology.  15 Q. Okay.  16 A. Yeah.  17 Q. So that description of the terminal appointment and  18 if it wasn't an up or out year, that part is consistent with  19 the memory, but the other part isn't?  20 A. That it was a not promote, and that -- excuse me --  21 that what I don't remember is that there was a terminal  22 appointment that the department successfully pushed back to  23 change to not promote.  24 Q. Okay.  25 A. Yeah.</p>	<p style="text-align: right;">65</p> <p>1 as inconsistent with what you would have told Dr. Nikolova and  2 that she recounts that you told her?  3 A. Sure. I'm going to look through them again real  4 quick. So No. 5 in her e-mail, I -- it would be consistent for  5 me to tell a candidate that at that time that the President's  6 Committee is receptive to total time spent in rank, not just  7 UT, the key being they're receptive to it so that she -- and  8 she quotes exceptional, end quotes, standard for for truly  9 early cases, i.e. total time in rank less than five years does  10 not apply to me. That's consistent with what I would tell a  11 candidate.  12 I think the next sentence I would have probably  13 worded differently had I been writing this for myself. It says  14 the statement letter in Ahmed's letter from me explaining this  15 should suffice -- excuse me. A letter in Ahmed's -- the  16 statement in Ahmed's letter for me explaining this should  17 suffice, meaning I have been seven years in rank. I think  18 there are a lot of interpretations for the word "suffice". I  19 would agree that that is an explanation that can be offered and  20 would be considered in an accelerated case.  21 Q. All right. And if that No. 5 is consistent with what  22 you just testified, is consistent with what we talked about  23 earlier, the exception being Category 4?  24 A. I'm looking at my -- reminding myself of the  25 categories and, yes. Yes, thank you.</p>

<p style="text-align: right;">66</p> <p>1 (Exhibit 48 identified.)</p> <p>2 Q. Okay. Next. Exhibit 48 is coming.</p> <p>3 A. Okay. I have opened it and I will scroll down and</p> <p>4 take a look.</p> <p>5 Q. Every time I put one up you don't have to say that I</p> <p>6 you can just read and then I will wait until you say I'm ready.</p> <p>7 (Brief pause in the proceedings.)</p> <p>8 A. Okay, thank you. Thank you, I'm ready.</p> <p>9 Q. Okay. So the letter from Professor Bloom is dated</p> <p>10 January 8, also sent via e-mail that same day, and you're</p> <p>11 copied on that along with the chain of command. Would you</p> <p>12 agree&gt;</p> <p>13 A. Yes, I am copied on this along with others.</p> <p>14 Q. The others are the chain of command for Dr. Nikolova</p> <p>15 with Dr. Dukerich and yourself being kind of not really in the</p> <p>16 chain of command but in the office?</p> <p>17 A. Yes, in terms of her supervisor and those supervisors</p> <p>18 above her, yes.</p> <p>19 Q. And she's writing to you on March 1st that she just</p> <p>20 learned that the letter had not been submitted. Did you do</p> <p>21 anything with the letter on January 8 it will I -- actually let</p> <p>22 me back up a little bit.</p> <p>23 A. Okay.</p> <p>24 Q. As part of your job duties that we talked about one</p> <p>25 of the things I didn't ask you is whether you were responsible</p>	<p style="text-align: right;">68</p> <p>1 A. I agree, yes, not on a copy we have, certainly.</p> <p>2 Q. And this January 8 is after the Dean has made her</p> <p>3 decision and before the President has -- and the President's</p> <p>4 Committee has met to review the file, correct?</p> <p>5 MS. HILTON: Objection. Form.</p> <p>6 A. Off the top of my head, I do not recall when Dean</p> <p>7 Wood met with the President but I agree this is before the</p> <p>8 President's decision was written in a letter to Dean Wood.</p> <p>9 Q. Okay. A month, a month and a week or so?</p> <p>10 A. Before that decision was written in a letter, yes.</p> <p>11 Q. Okay. Did you do anything with this letter?</p> <p>12 A. No. Well, I don't recall doing anything with this</p> <p>13 letter.</p> <p>14 Q. Okay. Why not?</p> <p>15 A. Well, I'll note I was not asked to do anything with</p> <p>16 this letter, with this e-mail. That's what comes to mind</p> <p>17 first.</p> <p>18 Q. You weren't asked by Dr. Nikolova?</p> <p>19 A. That's correct. I don't recall being asked by Dr.</p> <p>20 Nikolova, Dr. Sinbez, McInnis, Wood. You know the individuals</p> <p>21 we were establishing our first supervisor and supervisor's</p> <p>22 supervisors.</p> <p>23 Q. Do you see this as being a positive letter?</p> <p>24 MS. HILTON: Objection. Form.</p> <p>25 A. I read this e-mail as being from someone who supports</p>
<p style="text-align: right;">67</p> <p>1 for making sure the dossier were ready for the President's</p> <p>2 Committee.</p> <p>3 A. Yes, that is part of my responsibility. There are a</p> <p>4 number of us in the Provost office who contribute to that</p> <p>5 including myself.</p> <p>6 Q. Okay. And that would include putting additional</p> <p>7 documents or supplemental material in the file or not in the</p> <p>8 file?</p> <p>9 A. Certainly I have done that before when asked by a</p> <p>10 candidate or department chair or Dean. I have facilitated that</p> <p>11 part of the process that's described in our general guidelines.</p> <p>12 Q. Okay. And are you also the gate keeper to not put</p> <p>13 documents in to the file?</p> <p>14 A. What do you mean?</p> <p>15 Q. I'm sorry?</p> <p>16 A. I interrupted you. Could you explain what you mean</p> <p>17 by gate keeper, please.</p> <p>18 Q. Are you the person to decide whether something goes</p> <p>19 in the folder or not?</p> <p>20 A. If a candidate or chair or Dean requested a document</p> <p>21 be placed in a promotion file, it's not within my scope of</p> <p>22 authority to deny that request.</p> <p>23 Q. Okay. But you look at the e-mail and the letter in</p> <p>24 Exhibit 48 at the bottom there, preferred communication, but</p> <p>25 Dr. Nikolova is not copied, correct?</p>	<p style="text-align: right;">69</p> <p>1 her promotion and tenure at UT Austin. Because he said to deny</p> <p>2 it would be a travesty really.</p> <p>3 Q. Right, so at this point you know that Dr. Nikolova</p> <p>4 has been recommended against tenure by her Dean. She has the</p> <p>5 threat of possibly getting a terminal appointment decision made</p> <p>6 on her and this well respected, and I don't know if you know</p> <p>7 he's a Turing Award winner, meaning it's hard to get higher</p> <p>8 accolades in his field globally, writes this letter to</p> <p>9 President Fenves on Dr. Nikolova's behalf. Do you see that,</p> <p>10 right?</p> <p>11 MS. HILTON: Objection. Form.</p> <p>12 A. Yes, I acknowledge that he's written to President</p> <p>13 Fenves.</p> <p>14 Q. It would have been his intent to positively impact</p> <p>15 her consideration for tenure?</p> <p>16 A. I certainly can't speak to his intent but this is a</p> <p>17 letter where he recommends her promotion.</p> <p>18 Q. That doesn't indicate to you what his purpose of</p> <p>19 writing this letter is?</p> <p>20 A. I'm just careful to assign intent and purpose to</p> <p>21 other people.</p> <p>22 Q. Okay. You wouldn't argue with that conclusion?</p> <p>23 A. No, I would not argue.</p> <p>24 Q. Did you think to contact Professor Nikolova -- Dr.</p> <p>25 Nikolova and say, hey, we got this letter, did you know about</p>



<p style="text-align: right;">70</p> <p>1 it and if so, if you want it added to your folder, you will  2 need to ask me to do so?  3 A. I would not have thought to do that. That would be  4 inconsistent.  5 Q. Inconsistent with your job duties?  6 A. Inconsistent with -- yes. Inconsistent with my job  7 duties and inconsistent with how I have handled e-mails that I  8 am copied on about other candidates. Inconsistent with my  9 general approach to that.  10 Q. This isn't normal is it that you get letters from  11 renowned scholars prior to the President's vote?  12 MS. HILTON: Objection. Form.  13 A. In my role, I have been copied on letters from  14 external individuals related to candidates. I do not recall  15 ever forwarding one of those e-mails to the candidate.  16 Q. Earlier you said that there have been occasions where  17 you reached out to a candidate without them calling you first.  18 A. Sure.  19 Q. You don't think this would be one of those situations  20 where you confirm that they're aware of this letter and the  21 somewhat specific rule, that if they don't ask for it to be  22 included, it will just sit gathering dust and not have any  23 impact on the decision?  24 MS. HILTON: Objection. Form.  25 A. Forwarding to the candidate about whom it was written</p>	<p style="text-align: right;">72</p> <p>1 sent, how does she know when to make the request, if ever?  2 MS. HILTON: Objection. Form.  3 A. So it certainly is my job to ensure that required  4 documents as stated in the general guidelines are placed in the  5 file in the appropriate place. It is not -- it simply isn't my  6 job to flag documents that are not required to a candidate to  7 see if they would like that document included or not.  8 Q. Is it against your job duties to contact Dr. Nikolova  9 and say, hey, we have this letter, would you like to include it  10 and if you would you need to make a request?  11 MS. HILTON: Objection. Form.  12 A. No. I'll say no.  13 Q. Were you told -- actually, I'll pull that back. The  14 question is was it your decision how to handle this e-mailed  15 letter from Professor Bloom or did someone else tell you what  16 to do or not do with this letter prior to the President's  17 decision, President's Committee consideration of Dr. Nikolova's  18 file?  19 A. At the time we received this? Certainly I had an  20 understanding of what was consistent with what we had done with  21 statements like this in the past. This is the kind of thing I  22 would have consulted with Janet Dukerich on as my supervisor.  23 I don't recall if we consulted on this or not.  24 Q. Do you recall having a conversation with Dr. Nikolova  25 other than the e-mail exchange about her realizing after the</p>
<p style="text-align: right;">71</p> <p>1 wouldn't -- I don't remember the whole question but it would be  2 inconsistent with my -- the way I -- I'm not answering your  3 question. Could you repeat your question for me, please?  4 Q. How is you taking any action to communicate with Dr.  5 Nikolova about this very positive letter that's clearly meant  6 to impact the decision that you believe won't be included  7 unless she asked for it to be included, how is that  8 inconsistent with your job?  9 MS. HILTON: Objection. Form.  10 A. It's my experience that it would -- it's my  11 experience that this is not something that I had done before to  12 take any communication about a candidate, positive or negative,  13 to forward it to that candidate. My role in the process is to  14 follow the general guidelines and other related policies for  15 promotion and tenure. Sending something that I received about  16 a candidate to that candidate, to advise them on next steps,  17 would simply be inconsistent with that practice.  18 MR. NOTZON: Objection. Nonresponsive.  19 Q. You're making a conclusory statement that's  20 inconsistent. I'm asking you how is it inconsistent, and so  21 that's what I'm trying to gather from -- it's -- do you have a  22 duty not to help identify when a document goes in the folder or  23 doesn't go in the folder? I thought that was part of your role  24 is understanding what goes in the folder and doesn't, and if  25 there's no indication that she's notified of the letter being</p>	<p style="text-align: right;">73</p> <p>1 President's decision that the Bloom letter did not make it to  2 the folder?  3 A. I don't recall if she and I spoke about this or not  4 other than the e-mail communication that you pointed out.  5 Q. Okay. Let's look at Exhibit 38 again.  6 A. Okay.  7 Q. It's up there, you looked at it before. Do you  8 recall?  9 A. Is that the general guidelines?  10 Q. Yes.  11 A. Okay, yes thank you.  12 Q. Okay. And if you'd look at Page 16?  13 A. Thank you. I'm on Page 16.  14 Q. Sure. Is this the C10-C is that the applicable  15 provision?  16 A. Yes.  17 A. I think that would be another one but, yes, that's  18 applicable.  19 Q. I'm happy to look at another one, too, but let's go  20 ahead and talk about this one first.  21 A. Thank you.  22 Q. It doesn't say that before material is included that  23 there must be a request made, does it?  24 A. You're correct. I agree with that.  25 Q. So given that there's no requirement that the</p>

<p style="text-align: right;">74</p> <p>1 candidate makes a request -- well, I'll leave it. Okay. You</p> <p>2 said there was another applicable provision?</p> <p>3 A. I'd like to scroll up and see.</p> <p>4 Q. Well --</p> <p>5 A. Pardon me.</p> <p>6 Q. As you were. Go ahead.</p> <p>7 A. Okay. Since it did change, I don't know if I'm</p> <p>8 recalling something from what version.</p> <p>9 Q. Look at C9.</p> <p>10 A. Okay I'm scrolling down.</p> <p>11 Q. It's on Page 16.</p> <p>12 A. Thank you.</p> <p>13 Q. At the top of the page.</p> <p>14 A. C9.</p> <p>15 Q. Yes.</p> <p>16 A. Oh, that we -- additional statements.</p> <p>17 Q. Yes.</p> <p>18 A. I think that's the one we just looked at or was I</p> <p>19 looking at the wrong thing?</p> <p>20 Q. No, we looked at C10-C?</p> <p>21 A. C10-C. Other supplemental related materials?</p> <p>22 Q. Yes.</p> <p>23 A. Oh, I'm sorry, we may need to go back and touch base</p> <p>24 I was answering questions related to C9 additional statements.</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">76</p> <p>1 not be a letter from a professor, a world renowned scholar,</p> <p>2 right?</p> <p>3 A. No it would be a teaching statement.</p> <p>4 Q. So that's a distinct document so whatever procedure</p> <p>5 that would relate to that are different than what we're talking</p> <p>6 about right now?</p> <p>7 A. I see.</p> <p>8 Q. So I'd like to focus on just Professor Bloom.</p> <p>9 A. Okay.</p> <p>10 Q. And you would agree that Professor Bloom's letter</p> <p>11 would be accurately fall within the other supplemental</p> <p>12 material?</p> <p>13 A. That is one place it could be put.</p> <p>14 Q. Well, it couldn't be in B, right, because it wasn't</p> <p>15 solicited?</p> <p>16 A. It was not -- to my knowledge it was not solicited by</p> <p>17 anyone copied on the e-mail. I don't know -- I don't know if</p> <p>18 she asked him to write or not.</p> <p>19 Q. And he's not a collaborator?</p> <p>20 A. I don't know.</p> <p>21 Q. Well it says so in his letter right?</p> <p>22 A. Oh okay.</p> <p>23 Q. It doesn't talk about him being a collaborator of</p> <p>24 her.</p> <p>25 A. Does it state that he's not?</p>
<p style="text-align: right;">75</p> <p>1 A. I apologize.</p> <p>2 Q. And the question of C10-C is there's nothing there</p> <p>3 that says that a candidate must make a request before the</p> <p>4 materials would be included the file.</p> <p>5 A. So for C10-C, making sure I'm in the right place,</p> <p>6 other supplemental materials, it states the candidates have the</p> <p>7 discretion to include any materials that they believe are</p> <p>8 relevant?</p> <p>9 Q. Yes.</p> <p>10 A. Yes. I agree. It does not specifically say that a</p> <p>11 candidate must request that they be added. Rather it says</p> <p>12 candidates have the discretion to include it.</p> <p>13 Q. Right.</p> <p>14 A. Yes.</p> <p>15 Q. That's ambiguous, isn't it?</p> <p>16 A. That candidates have the discretion to include.</p> <p>17 Q. Yeah. It doesn't say the candidate must make the</p> <p>18 request before the item is included but it says the candidate</p> <p>19 has the discretion right --</p> <p>20 A. You know, I would -- I want to look back at the other</p> <p>21 -- I'm not sure that we say anywhere in these guidelines the</p> <p>22 candidate must request in order to include but there are other</p> <p>23 materials that the candidate contributes -- contributes to the</p> <p>24 dossier such as their teaching statement.</p> <p>25 Q. Right, well that would be a different -- that would</p>	<p style="text-align: right;">77</p> <p>1 Q. Feel free to read it.</p> <p>2 A. Thank you. Yes, as long as it would not be an</p> <p>3 appropriately filed it is a letter from a collaborator.</p> <p>4 Q. Ok.</p> <p>5 A. Typically when a candidate, C9 is I think what you</p> <p>6 were going to ask me about next.</p> <p>7 Q. Well, let's finish this C10-C.</p> <p>8 A. Okay. Yes.</p> <p>9 Q. Okay. Clearly, I was asking you about the ambiguity,</p> <p>10 okay. Candidates have a discretion to include materials and</p> <p>11 they would want to include materials -- this provision provides</p> <p>12 the candidate with the discretion to deny including materials</p> <p>13 that they might find unhelpful or include those that they find</p> <p>14 helpful and they get to make that decision, right?</p> <p>15 MS. HILTON: Objection. Form.</p> <p>16 A. Candidates do get to decide what is in other</p> <p>17 supplemental materials, yes.</p> <p>18 Q. Okay. And that's the purpose of that provision and</p> <p>19 given that this is a letter from a world renowned scholar and</p> <p>20 it's a positive letter, it's a no-brainer what her discretion</p> <p>21 would be when she has a recommendation of no tenure from the</p> <p>22 Dean but positive, unanimous support tenure from</p> <p>23 committee^ can't understand the word before committee she would</p> <p>24 want this letter in her file, right?</p> <p>25 MS. HILTON: Objection. Form.</p>

<p style="text-align: right;">78</p> <p>1 Q. You couldn't argue that she would not want that 2 letter in, could you?</p> <p>3 MS. HILTON: Objection. Form.</p> <p>4 Q. Thousands of experiences, come on, now.</p> <p>5 MS. HILTON: Objection. Form.</p> <p>6 A. I would not argue with that.</p> <p>7 Q. So after -- so you don't recall having any 8 conversations with anybody about this letter prior to the 9 President's Committee considering Dr. Nikolova's file, is that 10 accurate?</p> <p>11 A. It is accurate that I do not recall having a 12 conversation with anyone about this letter.</p> <p>13 Q. Not saying it didn't happen but you just don't 14 recall?</p> <p>15 A. That's correct.</p> <p>16 Q. Okay. Did you have any conversations with anybody 17 about this letter prior to you writing to Dr. Nikolova saying 18 what you said in Exhibit 48?</p> <p>19 A. I believe -- I'm having a recollection that Janet 20 Dukerich and I did talk about that, about that question.</p> <p>21 Q. Okay.</p> <p>22 A. I don't recall the substance of that conversation 23 although my response would have been consistent with it.</p> <p>24 Q. Did you draft this e-mail or did somebody else?</p> <p>25 A. I don't recall that happening.</p>	<p style="text-align: right;">80</p> <p>1 The university only adds documentation to a promotion dossier 2 that is required as documented in the general guidelines which 3 is true. Or explicitly requested to be added to the dossier, 4 which is true. I would also agree with you that -- well, if 5 you'll ask your question again.</p> <p>6 Q. Isn't it true that there's nothing in the guidelines 7 that state that there must be an explicit request from the 8 candidate before the document will be put in the dossier?</p> <p>9 A. That is true.</p> <p>10 Q. So how is your e-mail not untrue?</p> <p>11 A. Because the sentence in the e-mail says that the 12 university only adds documentation for promotion dossiers that 13 is required -- oops, sorry, my mouse -- that is required as 14 documented in the general guidelines. So a required document 15 that's listed in the general guidelines or explicitly requested 16 to be added to the dossier which would be a document that's not 17 required that's been requested explicitly to be added.</p> <p>18 In other words, we don't add documents that 19 haven't been -- we don't add non-required documents that 20 haven't been requested to be added.</p> <p>21 Q. So the distinction is when that request is made and 22 how that request is made would be the ambiguity in your 23 statement that you're saying doesn't render it false?</p> <p>24 MS. HILTON: Objection. Form.</p> <p>25 A. I don't see my e-mail as ambiguous.</p>
<p style="text-align: right;">79</p> <p>1 Q. What happening?</p> <p>2 A. I don't recall drafting this for review prior to 3 sending it.</p> <p>4 Q. Okay. So you think you wrote this?</p> <p>5 A. I think I did, yes. Yeah.</p> <p>6 Q. And you agree, don't you, that what you wrote in this 7 e-mail is actually not true?</p> <p>8 MS. HILTON: Objection. Form.</p> <p>9 A. Well, I don't agree with that.</p> <p>10 Q. Well, let's look at it especially the part where it 11 says explicitly requested to be added to the dossier. There's 12 nothing in the guidelines that state that, correct?</p> <p>13 A. I'd like to look at one other section of the 14 guidelines if I may?</p> <p>15 Q. Yes, please.</p> <p>16 A. Thank you.</p> <p>17 Q. I don't want to fault your language in this e-mail 18 without you confirming it. Let me nowhere you're looking.</p> <p>19 A. Oh, sure. I'm looking at C9, additional statements, 20 which is the folder the university uses when something is 21 requested -- a non-required document is requested to be added 22 to the dossier. I still believe my e-mail is accurate.</p> <p>23 Q. Where does it say in C9 that there must be an 24 explicit request from the candidate?</p> <p>25 A. Well, I'd like to read the sentence in my e-mail.</p>	<p style="text-align: right;">81</p> <p>1 Q. How about -- what about C8?</p> <p>2 A. In the general guidelines?</p> <p>3 Q. Yes, look at Section I.</p> <p>4 A. I see that.</p> <p>5 Q. That doesn't say that a request needs to be made?</p> <p>6 A. I agree.</p> <p>7 Q. Why isn't that at play in this e-mail that you sent?</p> <p>8 A. I have not had -- in the times that we have received 9 e-mails like this, they have not been placed among unsolicited 10 letters in the dossier. Unsolicited letters in a dossier have 11 historically been any letters received by the department or 12 college prior to -- or as the file is being assembled.</p> <p>13 Q. And as we already talked about, you would have been 14 within your job duties to have contacted her and let her know 15 that the letter was there and identify for her that she had the 16 discretion to include it if she wants?</p> <p>17 A. I believe my testimony was that it wouldn't be 18 contrary --</p> <p>19 Q. Right.</p> <p>20 A. -- to my job duties.</p> <p>21 Q. Right.</p> <p>22 Q. Okay, one more.</p> <p>23 A. Okay.</p> <p>24 (Exhibit 49 identified.)</p> <p>25 Q. And this is Exhibit 49.</p>

<p style="text-align: right;">82</p> <p>1 A. Thank you, I've reviewed it.</p> <p>2 Q. Okay. And this is the -- you consulting with your</p> <p>3 supervisor about the language and her making suggestions.</p> <p>4 A. Yes, it is.</p> <p>5 Q. Did you have any other conversations with anyone</p> <p>6 else besides your supervisor about how to respond to the</p> <p>7 document below?</p> <p>8 A. Not that I recall.</p> <p>9 Q. Okay, let's go off the record real quick.</p> <p>10 (A recess was taken at 12:00 p.m.)</p> <p>11 Q. (BY MR. NOTZON) Okay, Ms. Shockley, before we go into</p> <p>12 the corporate topics real quick, I wanted to ask a question.</p> <p>13 You understand that Dr. Nikolova provided a</p> <p>14 final arguments document in her case, correct?</p> <p>15 A. Yes.</p> <p>16 Q. And it was not considered, correct?</p> <p>17 A. Correct.</p> <p>18 Q. And where is the provision that was relied upon to</p> <p>19 not review her final arguments document?</p> <p>20 A. It's within the general guidelines. Shall we look at</p> <p>21 that?</p> <p>22 Q. Sure.</p> <p>23 A. It is section D 2, Page 17.</p> <p>24 Q. Okay.</p> <p>25 A. It specifies that a candidate whose case is terminal</p>	<p style="text-align: right;">84</p> <p>1 reconsideration?</p> <p>2 A. Because we have a provision in the general guidelines</p> <p>3 for reconsideration, which is D4, I'm careful to use those</p> <p>4 phrases of terminology very distinctly though I accept the</p> <p>5 premise that an individual submitting final arguments is asking</p> <p>6 for a different decision to be made.</p> <p>7 Q. Did you review Dr. Nikolova's final argument</p> <p>8 document?</p> <p>9 A. I don't recall that I did.</p> <p>10 Q. And would it be your testimony that you didn't</p> <p>11 because you didn't really have to because it didn't comply with</p> <p>12 your reading of the guidelines?</p> <p>13 A. Correct.</p> <p>14 Q. And the decision made by the university was in</p> <p>15 accordance with your reading of the guidelines?</p> <p>16 A. Yes. The decision not to consider her final</p> <p>17 arguments.</p> <p>18 Q. Do you know if anybody reviewed the final arguments?</p> <p>19 A. I don't know.</p> <p>20 Q. And even to this day you haven't reviewed them?</p> <p>21 A. No. No.</p> <p>22 Q. All right. Let's go ahead and move to the corporate</p> <p>23 topic, the tenure review decision process relating to the</p> <p>24 decision to deny tenure to Dr. Nikolova as it relates to the</p> <p>25 actions of CCAFR.</p>
<p style="text-align: right;">83</p> <p>1 appointment pending may present final arguments.</p> <p>2 Q. Okay. And I guess this is one of those ambiguous</p> <p>3 provisions because it doesn't say that only a candidate whose</p> <p>4 case is terminal appointment may present.</p> <p>5 A. I agree that the word "only" is not in here.</p> <p>6 Q. And it doesn't proscribe against others from being</p> <p>7 able to present final argument?</p> <p>8 A. I agree that it does not list the individuals with</p> <p>9 other outcomes who may not present final arguments.</p> <p>10 Q. Okay. And were you part of the decision-making</p> <p>11 process to not review her final argument?</p> <p>12 MS. HILTON: Objection. Form.</p> <p>13 A. I would have been asked in any case like this if an</p> <p>14 individual who has a do-not-promote decision is eligible for</p> <p>15 submitting terminal -- excuse me, is submitting final</p> <p>16 arguments, and I would have advised that no, those are reserved</p> <p>17 for a candidate whose case is terminal-appointment pending. I</p> <p>18 don't recall specifically who I talked to about that, the</p> <p>19 general rule in her case. I believe I had an e-mail -- I</p> <p>20 recall having e-mail correspondence with her about that. It</p> <p>21 would have been typical for me to talk with the Provost or</p> <p>22 President about that but I don't recall those specific</p> <p>23 conversations about the rules here.</p> <p>24 Q. Okay. Do you recall if anyone else provided -- and</p> <p>25 this final arguments, it also could be called a request for</p>	<p style="text-align: right;">85</p> <p>1 What did you do to prepare for your deposition</p> <p>2 on this topic?</p> <p>3 A. To prepare for my testimony on this topic, I</p> <p>4 re-familiarized myself with Dr. Nikolova's request for review</p> <p>5 by the committee of counsel on academic freedom and</p> <p>6 responsibility, given that acronym we pronounce CCAFR. I</p> <p>7 reviewed her request. I reviewed the committees, the</p> <p>8 subcommittees response to the President, reviewed the</p> <p>9 President's response to the subcommittee, to CCAFR. I spoke</p> <p>10 with Professor Pauline Strong who served as a subcommittee</p> <p>11 member in the review of the case.</p> <p>12 Q. Is she a CCAFR committee member?</p> <p>13 A. Yes, yes, she is a member of the CCAFR subcommittee.</p> <p>14 Thank you that what's coming to my mind right now in terms of</p> <p>15 preparation.</p> <p>16 Q. So she was involved in writing the CCAFR response to</p> <p>17 Dr. Nikolova's request?</p> <p>18 A. Yes, thank you. That's correct.</p> <p>19 (Exhibit 50 identified.)</p> <p>20 Q. Okay. And before we go further, could you -- your</p> <p>21 notes that you were -- have been taking and referring to, could</p> <p>22 you show those up to the camera for me real quick?</p> <p>23 A. Sure. They're messy.</p> <p>24 Q. Okay. And just the one page?</p> <p>25 A. That's correct.</p>

<p style="text-align: right;">86</p> <p>1 Q. Okay. It's common, we're going to ask you to scan 2 that in and send it to us. 3 A. Okay. 4 Q. And we'll make that Exhibit 50. 5 A. Okay. 6 Q. And it will be -- you can continue to make notes on 7 it as you will and we'll just -- when the depositions over, if 8 you would just scan those and e-mail them to your counsel and 9 then they can forward it to us. 10 A. Okay, will do. 11 Q. All right. What experience do you have with CCAFR 12 review? I guess there's the process, right? 13 A. Yes. So that's what you're hear to testify about as 14 UT. You understand that the request for CCAFR review is made by 15 the candidate and there is -- I think at that time there was a 16 four-week deadline for CCAFR to respond, is that right? 17 A. That sounds right, yes. 18 Q. Okay. And they -- I think in that year they 19 complained that four weeks just wasn't enough; they needed more 20 time. Did that time get changed? 21 A. That time has not changed since then. 22 Q. Okay. Still four weeks? 23 A. Yes. 24 Q. All right. When a faculty member, candidate asks for 25 a CCAFR review are you involved in that process? I mean not</p>	<p style="text-align: right;">88</p> <p>1 Q. Double digits? 2 A. Pardon? 3 Q. Double digits, triple digits? 4 A. In the time that I've been in this position or been 5 serving this role in the President's Committee or in the 6 promotion and tenure process, yes, it would be more than ten 7 total. 8 Q. Dozens? 9 A. I don't think dozens. I'd have to look to see 10 exactly how many there have been. We've had years with one, 11 years with four or five. And over the number of years I've 12 done it, I'm coming up with a rough estimate. 13 Q. Is there a deadline for the President to respond? 14 A. We have a milestone date that we try to hit every 15 year. Don't recall what it was in that given year so as we 16 sketch out the whole 12 months of calendar for promotion and 17 tenure. We do insert a date by which we'd like the President 18 to have responded. 19 Q. Okay. And in this case, you understand that there 20 were complaints of gender or pregnancy discrimination? 21 A. I did see that in her report and interview notes and 22 the mention of it in the CCAFR report, too. 23 Q. And did you see in the CCAFR report that they didn't 24 feel like they had adequate time or information to really opine 25 on that?</p>
<p style="text-align: right;">87</p> <p>1 the request process but the presidential response to the CCAFR 2 report? 3 A. So, yes, the person in my role, me, once CCAFR has 4 submitted it's report in response to the request, I do review 5 that and I participate in meeting with the President and the 6 Provost, legal counsel and Senior Vice Provost for Faculty 7 Affairs. 8 Q. And do you participate in drafting response to the 9 CCAFR report? 10 A. I do participate in that at the President's 11 direction. 12 Q. Either drafting, editing, contributing in whatever 13 way the President asks you to -- 14 A. Yes, yes. Particularly drafting. Yes, particularly 15 the -- yes. 16 Q. And in this case, what do you recall doing? 17 A. In this case, I recall beginning the draft letter. 18 There are pieces of it that are quite standard where the 19 complaint is -- where the request for review is stated and 20 CCAFR's finding is stated. Those elements of the letter I 21 would have contributed to. 22 Q. Okay. And is it your -- and you've been involved in 23 that CCAFR response process for how many CCAFR reviews occur 24 that you have been involved in besides Dr. Nikolova? 25 A. I'm not sure what the number is.</p>	<p style="text-align: right;">89</p> <p>1 A. I did see that. 2 Q. Have you ever experienced that CCAFR actually 3 conducts an investigation into complaints of discrimination 4 when they're raised and a request for a CCAFR review? 5 A. Not to my memory. 6 Q. You would agree that as -- from your understanding of 7 how UT works, that complaints of discrimination and retaliation 8 are handled by some other organization not CCAFR? 9 A. Yes, they would be best investigated by the office 10 designated to investigate those claims. 11 Q. Which would be the office of institutional equity? 12 A. Yes, it has had several names over the year but the 13 OIE acronym has stayed the same so yes that would who be -- at 14 that time I suppose. 15 Q. Even before that, though, was it was the EEO office 16 or -- because you've been here long enough to even pre-date 17 OIE? 18 A. Yes, I believe so. 19 Q. Not calling any names. All right. 20 So the limitation on CCAFR is breaches of 21 academic freedom and violations of policy, is that right? 22 A. And procedure, yes, that's correct. 23 Q. And what they're not supposed do is talk about 24 professional judgment? 25 A. That's correct.</p>

<p style="text-align: right;">90</p> <p>1 Q. So --</p> <p>2 A. I'm sorry, I would clarify that just to say that</p> <p>3 that's outside the scope of what they're asked to consider.</p> <p>4 (Exhibit 51 identified.)</p> <p>5 Q. Okay. And I saw how the President's response -- in</p> <p>6 fact, I don't think we have that as an exhibit yet. Let's go</p> <p>7 ahead and make that Exhibit 51. Let me put it up. Got it?</p> <p>8 A. Working on it.</p> <p>9 Q. Not rushing.</p> <p>10 A. Now I have it. I'm just going to look through it</p> <p>11 quickly.</p> <p>12 (Brief pause in the proceedings.)</p> <p>13 A. Okay. Yes, thank you.</p> <p>14 Q. And that is the document that you helped create?</p> <p>15 A. That's correct.</p> <p>16 Q. All right. And I see there's some comments about --</p> <p>17 from President Fenves saying that this is a matter of</p> <p>18 professional judgment and we're not going to go into it. And</p> <p>19 where is the line where if -- so that -- one of the questions I</p> <p>20 have is if data is disregarded or not looked at, is that a</p> <p>21 professional judgment or is that a mistake or a intentional</p> <p>22 violation of the duty to do their job to actually opine on the</p> <p>23 data that's available instead of not?</p> <p>24 MS. HILTON: Objection. Form.</p> <p>25 A. Are you asking me where the line between what is a</p>	<p style="text-align: right;">92</p> <p>1 process.</p> <p>2 Q. Okay. There would be no argument? There would be no,</p> <p>3 wait, it's not professional judgment because you have X, Y and</p> <p>4 Z&gt;. There's no back-and-forth? Once the President says, no,</p> <p>5 that's professional judgment, not a violation that's the end of</p> <p>6 it --</p> <p>7 A. That's accurate.</p> <p>8 Q. -- all right.</p> <p>9 Let's go to the next topic -- and that's the end</p> <p>10 of it, right? That's the sum total of the process?</p> <p>11 A. Yes, it is.</p> <p>12 Q. And so if the President makes a decision or doesn't</p> <p>13 make a decision and then consequences flow from there?</p> <p>14 A. Outcomes, yes, uh-huh.</p> <p>15 Q. Better. And the recommendations that they make, I</p> <p>16 saw that the President forwarded those recommendations onto the</p> <p>17 Provost office, I believe, and do you remember if any of those</p> <p>18 five items got implemented?</p> <p>19 A. I am going to look back at the exhibit that you</p> <p>20 uploaded just to make sure I speak to each of the five.</p> <p>21 Q. Sure. Take your time.</p> <p>22 A. The decision not to promote was not reversed.</p> <p>23 Q. Why?</p> <p>24 A. It was decided still to this day that final arguments</p> <p>25 are not considered and do not promote decisions. The</p>
<p style="text-align: right;">91</p> <p>1 professional judgment and what is potentially a policy or</p> <p>2 procedure violation lies?</p> <p>3 Q. Good answer.</p> <p>4 A. Pardon?</p> <p>5 Q. That's a better way to ask it.</p> <p>6 A. With my corporate rep hat on, because each case is</p> <p>7 unique, that may end up coming down to the specific allegations</p> <p>8 and findings and then opinion of the President in each case.</p> <p>9 In other words, CCAFR, the subcommittee specifically but</p> <p>10 perhaps in consultation with a larger committee has to make</p> <p>11 that determination. I'm sorry, the candidate first would make</p> <p>12 that determination and then the committee and then ultimately</p> <p>13 the President. I don't believe there is a distinct line</p> <p>14 articulated in the guidelines that CCAFR follows or in the</p> <p>15 guidelines -- the general guidelines for promotion and tenure.</p> <p>16 Q. So if CCAFR agrees with the faculty member that</p> <p>17 there's a violation and it's not just a professional judgment</p> <p>18 issue, they would write it up in that way and try to explain</p> <p>19 it, but the end result is that if the President calls it a</p> <p>20 professional judgment, that's the last word and there's no more</p> <p>21 review?</p> <p>22 MS. HILTON: Objection. Form.</p> <p>23 A. That is an accurate -- I'm sorry, Amy.</p> <p>24 MS. HILTON: That's okay.</p> <p>25 A. I would say that's an accurate description of the</p>	<p style="text-align: right;">93</p> <p>1 recommendation to develop and annually update a faculty</p> <p>2 handbook for engineering, you know, we don't really have on</p> <p>3 campus nor do we require kind of a packaged and bound faculty</p> <p>4 handbook in each of our colleges though colleges like Cockrell</p> <p>5 School of Engineering do provide a lot of resources online for</p> <p>6 faculty with regard to policy and ways -- and processes for</p> <p>7 requesting certain things through their college. Documents the</p> <p>8 university policies regarding prior service and rank with</p> <p>9 another institution. This is honestly an ongoing conversation</p> <p>10 that I still observe questions about and discussion about so it</p> <p>11 certainly wasn't -- it's not something that was set aside as</p> <p>12 irrelevant to UT Austin.</p> <p>13 Q. But no changes?</p> <p>14 A. We do not have a written policy at the university</p> <p>15 regarding prior service.</p> <p>16 Q. Okay.</p> <p>17 A. Clarify the rules around requesting and rescinding a</p> <p>18 request for an extension to the probationary period. We have</p> <p>19 developed as a result of this recommendation and other</p> <p>20 questions that have come up along the way, have put together</p> <p>21 FAQs on the Provost Office website trying to provide concrete</p> <p>22 answers to the questions that often come up about that in an</p> <p>23 effort to be very transparent about that process.</p> <p>24 Q. And I'll talk to you more about that in the next</p> <p>25 deposition.</p>



<p style="text-align: right;">94</p> <p>1 A. Okay.</p> <p>2 Q. Because that's one of the -- that would fall within</p> <p>3 that, right?</p> <p>4 A. Okay, yes.</p> <p>5 Q. All righty. So onto the second topic.</p> <p>6 Policies for faculty members relating to the</p> <p>7 birth of a child including probationary extension or extension</p> <p>8 stopping or pushing the clock with a tenure track faculty</p> <p>9 relating to a new child, modified instructional duties and</p> <p>10 other policy related pregnancy related -- let me put up the</p> <p>11 policy.</p> <p>12 A. Thank you.</p> <p>13 (Exhibit 52 identified.)</p> <p>14 Q. This is 52.</p> <p>15 A. Okay. I am familiar with this policy and I'm just</p> <p>16 scanning --</p> <p>17 Q. Are there any other policies?</p> <p>18 A. There is no other policy -- well, in our handbook of</p> <p>19 operating procedures this is the policy related to the</p> <p>20 extension of the tenure track probationary period. There is a</p> <p>21 Regent's rule that has information about extensions, of course</p> <p>22 we're subject to be governed by the Regent's rule and other</p> <p>23 policies may reference this but they would all point back to</p> <p>24 this policy.</p> <p>25 Q. All right. Is there any other policy relating to</p>	<p style="text-align: right;">96</p> <p>1 A. Uh-huh.</p> <p>2 Q. Okay. And do you see there's nothing in here about</p> <p>3 rescinding?</p> <p>4 A. That's true. That's accurate. I suppose I should</p> <p>5 look but that is not in this policy.</p> <p>6 Q. And why is that?</p> <p>7 A. Good question. So when this policy was put in place</p> <p>8 and up until -- I don't know the exact year, if it was 20 -- it</p> <p>9 was in the 2014 to 2016 range, there was a decision to allow</p> <p>10 faculty members who had received an extension to be able to</p> <p>11 rescind that extension, kind of just take it off of their</p> <p>12 record. And we at that time I believe that was communicated to</p> <p>13 campus stakeholders and we began writing it into each letter</p> <p>14 where an extension was noted as being approved. There's kind</p> <p>15 of a clause, right, that it could be extend.</p> <p>16 Q. It could be rescinded?</p> <p>17 A. Oh, yes, thank you, it could be rescinded. I don't</p> <p>18 recall participating in conversations about adding that to the</p> <p>19 policy since -- and there are sometimes conversations about</p> <p>20 what is policy and what is process-based, so what rises to the</p> <p>21 level of needing to be in our handbook of operating procedures</p> <p>22 versus available, communicated related to a policy. So I can't</p> <p>23 -- I don't think I can answer why it's not in here but</p> <p>24 hopefully that background gives some context.</p> <p>25 Q. Okay. I'm -- there's potential consequences for</p>
<p style="text-align: right;">95</p> <p>1 birth and the other categories on the topic?</p> <p>2 A. Let me look at the topic again. I'm sorry. So</p> <p>3 specific to pregnancy and birth, and parental leave, we --</p> <p>4 there are often intersections with the universities sick leave</p> <p>5 policy because anyone -- because of the eligible use of sick</p> <p>6 leave. That's not faculty specific, that's a policy for</p> <p>7 employees.</p> <p>8 Q. Yeah.</p> <p>9 A. The faculty are related. I think it's fair to say</p> <p>10 that our modified instructional duties policy is -- I don't</p> <p>11 think it uses the words birth of a child but it does -- it does</p> <p>12 talk about care of a preschool aged child which is, you know,</p> <p>13 birth to school age. Oh, sorry forgot that. There's a</p> <p>14 parental leave policy that all employees are subject to. FMLA</p> <p>15 is not -- I don't believe it's in our handbook of operating</p> <p>16 procedures. It might be referenced but there is a resource page</p> <p>17 on the HR website.</p> <p>18 Q. Okay. And do you -- did the extension of the tenured</p> <p>19 track probationary period, was it in place when -- already in</p> <p>20 place when you arrived or is it something that came to be after</p> <p>21 you got here as an employee?</p> <p>22 A. Policy was in place prior to me joining -- I guess me</p> <p>23 joining UT Austin but prior to me come together the Provost</p> <p>24 office.</p> <p>25 Q. Okay, I see that it's 1997.</p>	<p style="text-align: right;">97</p> <p>1 rescinding or not rescinding -- let me use the term outcomes.</p> <p>2 A. Thank you.</p> <p>3 Q. You used before. There are different outcomes that</p> <p>4 can take affect if one rescinds or doesn't rescind their</p> <p>5 probationary period that would impact or potentially impact</p> <p>6 their consideration for tenure, correct, or at least the</p> <p>7 timing.</p> <p>8 A. At least the timing. Yes, I agree with that.</p> <p>9 Q. Well, not just the timing but it's the issue of</p> <p>10 accelerated or not would be a factor that would be -- well, no,</p> <p>11 right, because the only faculty that's affected is whether it's</p> <p>12 up or out?</p> <p>13 A. That's right.</p> <p>14 Q. Because in rank doesn't change, the count goes</p> <p>15 forward. So -- but if -- if there's -- would you agree that in</p> <p>16 a situation where somebody has six years in rank between UT and</p> <p>17 another institution but only four years of probationary time,</p> <p>18 that going up on the fourth year of probationary time or the</p> <p>19 fifth year of probationary time, wouldn't change because those</p> <p>20 would both be non up or out years?</p> <p>21 A. Yes, I'd agree with that.</p> <p>22 Q. Okay. So that the decision to rescind the</p> <p>23 probationary extension if you're sitting at four years and that</p> <p>24 would make it five years if you rescinded wouldn't change the</p> <p>25 fact that you're not in an up or out year?</p>



<p style="text-align: right;">98</p> <p>1 A. That's correct.</p> <p>2 Q. Okay. And the -- do you see any potential</p> <p>3 consequences to a faculty member who is going up in the fourth</p> <p>4 year of probationary time having met six years or more of in</p> <p>5 rank time with UT and somewhere else not rescinding and then</p> <p>6 being at the fifth year?</p> <p>7 A. Not rescinding and then being at the fifth year of</p> <p>8 probationary or --</p> <p>9 Q. No, rescinding and then being at the fifth year or</p> <p>10 not rescinding and staying at the fourth year. Is there any</p> <p>11 difference in how you understand their candidacy for tenure is</p> <p>12 reviewed?</p> <p>13 A. Okay, I'm thinking through your question. When a</p> <p>14 candidate is not up or out, the college and department</p> <p>15 essentially make a decision about whether to put them forward</p> <p>16 or not. I'm not sure if tracks completely with the example you</p> <p>17 just gave, so please let me know if it doesn't.</p> <p>18 So if rescinding a one or two probationary</p> <p>19 period extension, then makes it an up or out year, then they go</p> <p>20 forward without a decision being made about that with their</p> <p>21 college and department. So that's one outcome of rescinding, a</p> <p>22 faculty member can shift the needle on when the up or out year</p> <p>23 is.</p> <p>24 Q. But my hypothetical is going from four-year not up or</p> <p>25 out, or five-year by rescinding not up or out.</p>	<p style="text-align: right;">100</p> <p>1 A. Pardon my stumbling.</p> <p>2 Q. No, no, it is difficult at best to keep it straight</p> <p>3 and have the two hats and I appreciate you being cognizant of</p> <p>4 that.</p> <p>5 A. Thank you.</p> <p>6 Q. Who is the person that exists at UT -- that advises</p> <p>7 candidates of probationary extensions and whether and what the</p> <p>8 outcomes of rescinding or not rescinding are?</p> <p>9 A. I don't know if there is one person. We try to put</p> <p>10 out -- the university tries to put out communication,</p> <p>11 question-and-answer sessions, FAQs and the like to equip</p> <p>12 department Chairs, Dean's, some of your questions just</p> <p>13 candidates themselves and mentors to candidates. The faculty</p> <p>14 affairs office that I'm part of and the Provost offices always</p> <p>15 available to help answer questions from any of those</p> <p>16 individuals. I think what it comes down to, if a candidate</p> <p>17 came to me and said who should I ask for advice on this, I</p> <p>18 would say have a conversation with your chair and department --</p> <p>19 your department chair and your Dean.</p> <p>20 Q. Okay. And I think this segues us into what you were</p> <p>21 thinking about in response to the CCAFR request for changes.</p> <p>22 There's an effort to have FAQs now post spring 2019. Can you</p> <p>23 talk about those changes?</p> <p>24 A. So the -- I think it was two years ago when Tasha</p> <p>25 Beretvaz came into the role and started looking at the things</p>
<p style="text-align: right;">99</p> <p>1 A. It would still be not up or out either way.</p> <p>2 Q. Is there any other difference? There would be no</p> <p>3 difference there because non up or out, non up or out, that's</p> <p>4 not an issue?</p> <p>5 A. From a policy perspective, there would not be a</p> <p>6 difference.</p> <p>7 Q. What about from a perspective of the way in which</p> <p>8 their candidacy is reviewed for tenure? Do they have a</p> <p>9 heightened or higher bar that they have to cross at four years</p> <p>10 versus five?</p> <p>11 A. Because this isn't written in this policy or in our</p> <p>12 policies -- what's written in our policies or in the general</p> <p>13 guidelines, we can do that again, is that the work will be</p> <p>14 considered as though it were performed in the normal period of</p> <p>15 service. We'd have to look to see if that's what it said in</p> <p>16 those guideline as well.</p> <p>17 I don't know if speaking for Carmen Shockley is</p> <p>18 needed here. I don't -- should I be keeping separate the fact</p> <p>19 witness and the corporate witness? If I were speaking as Carmen</p> <p>20 Shockley -- maybe I'll just do that -- I have not perceived a</p> <p>21 difference in that example that you just gave.</p> <p>22 Q. Okay. And as UT?</p> <p>23 A. We don't have any policies that would create a</p> <p>24 difference between those examples.</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">101</p> <p>1 she -- she's a full professor in the college of education and I</p> <p>2 think that the things that she brought to the role in terms of</p> <p>3 clarifications, better transparency, more communication, these</p> <p>4 FAQs were Dr. Beretvaz led effort where she said that there's</p> <p>5 not enough clarity around these questions and answers and so</p> <p>6 that was the beginning of the FAQs that we do reference quite a</p> <p>7 bit now. Items such as the CCAFR recommendation certainly gave</p> <p>8 not -- but credibility to that -- the fact that that idea</p> <p>9 needed some exploration and action.</p> <p>10 Q. Any other changes that have occurred since spring of</p> <p>11 '19 on the probationary extension period?</p> <p>12 A. When we found ourselves so severely disrupted in</p> <p>13 spring of 2020 because of the pandemic, it was decided at the</p> <p>14 UT system level that the maximum number of two personal</p> <p>15 circumstances, extensions would stand, but that another</p> <p>16 probationary extension could be offered because of the</p> <p>17 operational impact of the COVID pandemic so I'd say that was a</p> <p>18 change meaning essentially that an assistant professor could</p> <p>19 get up to three probationary period extensions, two for</p> <p>20 personal circumstances and one for operational impact.</p> <p>21 Q. Okay.</p> <p>22 A. That's a big change that came to mind. I'm not sure</p> <p>23 that we -- I'm not recalling -- another change is not coming to</p> <p>24 mind.</p> <p>25 Q. Okay. And did you participate in drafting responses</p>

<p>102</p> <p>1 to FAQs?</p> <p>2 A. I did.</p> <p>3 Q. Do any of them relate to the affects of rescinding or</p> <p>4 not rescinding on the standard that's applied at tenure</p> <p>5 consideration?</p> <p>6 A. I don't believe we addressed that in the FAQ. I'd</p> <p>7 have to look to be certain.</p> <p>8 Q. For instance, does rescinding or not rescinding the</p> <p>9 probationary extension period have any impact on the height of</p> <p>10 the bar that you have to cross to get tenured, upon</p> <p>11 verification of that?</p> <p>12 A. No, I don't believe we have that in our FAQs.</p> <p>13 Q. If that question was put in the FAQs, your answer</p> <p>14 would be?</p> <p>15 A. Be -- as asked just then -- that would be a hard one</p> <p>16 to answer in that way. As we've kind of developed in this</p> <p>17 testimony, we do have different kind of categories that people</p> <p>18 end up falling into so I'd be hesitant to answer that as</p> <p>19 generally as I can answer a question such as what's the</p> <p>20 deadline to apply. It's a straightforward question-and-answer</p> <p>21 that applies to everyone. The question you posed I think would</p> <p>22 be better handled in a conversation so that we can look at that</p> <p>23 specific faculty member's time and rank and extensions.</p> <p>24 Q. So an answer would be it depends, contact X, Y or Z?</p> <p>25 A. That would be -- yes, that would be very similar to</p>	<p>104</p> <p>1 service as an Assistant Professor, the normative time for</p> <p>2 review that sort of six years that it would not be -- somewhat</p> <p>3 of what you said, it would not be counted as though it happened</p> <p>4 over eight years in rank therefore we wouldn't expect a greater</p> <p>5 productivity in eight years that the university would expect in</p> <p>6 a normative period of time.</p> <p>7 Q. Okay. And that's one of the ways that UT attempts to</p> <p>8 specify how the policy does not negatively impact a person that</p> <p>9 accesses that policy?</p> <p>10 A. I agree with that.</p> <p>11 MS. HILTON: Robert, real quick. Sorry to</p> <p>12 interrupt. I'm having a really hard time hearing you. Is</p> <p>13 there any way you could be a little closer to the microphone?</p> <p>14 MR. NOTZON: I'm moving around too much?</p> <p>15 MS. HILTON: Yeah, you're moving around too much.</p> <p>16 MS. SHOCKLEY: And I'm probably shouting.</p> <p>17 MR. NOTZON: No problem. Any time, just let me</p> <p>18 know. Is this better?</p> <p>19 MS. HILTON: Yes, thank you.</p> <p>20 (Last question read.)</p> <p>21 Q. (BY MR. NOTZON) Do you understand that just how the</p> <p>22 policy is applied to males and females is not the end of the</p> <p>23 inquiry when it comes to the effect of the policy on the</p> <p>24 faculty member?</p> <p>25 A. Can you please ask me that a different way?</p>
<p>103</p> <p>1 the answer.</p> <p>2 Q. What if the FAQ was what does considered as having</p> <p>3 occurred during the -- what was it, normal period or what did</p> <p>4 you say?</p> <p>5 A. The normal period of service.</p> <p>6 Q. Yeah. What does that apply to and how does that</p> <p>7 work?</p> <p>8 A. Specific to a probationary period extension?</p> <p>9 Q. Yes.</p> <p>10 A. So since that is articulated in the general</p> <p>11 guidelines, I would probably copy, paste what's in the general</p> <p>12 guidelines we could look at that to see if it answers that</p> <p>13 question you're asking me.</p> <p>14 Q. Feel free. I don't see that it does. I just make</p> <p>15 that statement but it doesn't explain what it means.</p> <p>16 A. Oh, I see. I see.</p> <p>17 Q. How it's applied?</p> <p>18 A. How it's applied.</p> <p>19 Q. So if you have X number of publication, it wouldn't</p> <p>20 be divided by seven years, it would be divided by six?</p> <p>21 A. I was trying to think if we had something referencing</p> <p>22 a denominator in that -- in those FAQs I don't think we do.</p> <p>23 Q. Well, taking the FAQs off the table just --</p> <p>24 A. Right, right, that was a reference point. So I would</p> <p>25 say the work -- the normal period of service would be as</p>	<p>105</p> <p>1 Q. Sure. I was trying to start general, but the idea is</p> <p>2 that a probationary extension for the birth of a child is</p> <p>3 offered to allow the parent, male or female, to have time with</p> <p>4 their child without it negatively impacting or drawing their</p> <p>5 attention away to the work and to the tenure process which is,</p> <p>6 you know, admittedly can be stressful, because you need to --</p> <p>7 you need to be wonderful for six years.</p> <p>8 But when a man who doesn't birth a child has the</p> <p>9 extension, they're not as medically, physiologically,</p> <p>10 emotionally, psychologically taxed as a woman is so when they</p> <p>11 have the probationary extension they get an extra years worth</p> <p>12 of effort that can be crammed into the six years so they get</p> <p>13 seven years of work that's put down into six years whereas a</p> <p>14 woman might actually lose that entire year depending on the</p> <p>15 medical issues that they engage in?</p> <p>16 MS. HILTON: Objection. Form.</p> <p>17 Q. Do you see that as a factor that is in play with the</p> <p>18 implementation of the probationary extension for the birth of a</p> <p>19 child?</p> <p>20 MS. HILTON: Objection. Form.</p> <p>21 A. I do not.</p> <p>22 THE WITNESS: Sorry, Amy. I keep interrupting</p> <p>23 you.</p> <p>24 Q. You do not, you said?</p> <p>25 A. I do not see that as a factor at play when</p>

<p style="text-align: right;">106</p> <p>1 implementing this policy for our employees.</p> <p>2 Q. And is that because you disagree with what I said</p> <p>3 that women have greater medical, physical, emotional tolls when</p> <p>4 birthing a child than a men does?</p> <p>5 A. I don't agree that that is the situation for every</p> <p>6 woman or every family.</p> <p>7 Q. Okay. I don't know what I said if it was for every</p> <p>8 woman but definitely as between men and women there is going to</p> <p>9 be a difference there.</p> <p>10 A. I am -- I'm not comfortable saying that that is</p> <p>11 true...</p> <p>12 Q. Okay. How about that there is a potential substantial</p> <p>13 difference in the experience between the birthing mother and</p> <p>14 the non-birthing father?</p> <p>15 A. Because the policy is broader than that and I was</p> <p>16 thinking about implications for the policy. What I'm thinking</p> <p>17 of is there are some situations where that could be the reverse</p> <p>18 because it's not just from that children born in a certain way</p> <p>19 but it's also for adoption and other family circumstances</p> <p>20 where, if you were talking about two partners who shared</p> <p>21 household responsibilities it could be -- I'm not comfortable</p> <p>22 saying that there's -- that we can generalize one having more</p> <p>23 impact than another, one employee having a greater impact than</p> <p>24 another without looking kind of case-by-case and getting their</p> <p>25 feedback.</p>	<p style="text-align: right;">108</p> <p>1 period extensions and then formed a policy as a result of that.</p> <p>2 Q. Okay. Or considered altering the policy?</p> <p>3 A. There has not been consideration of altering the</p> <p>4 policy along those lines that I'm aware of.</p> <p>5 Q. All right. Let's go ahead and go the third topic.</p> <p>6 A. Okay.</p> <p>7 Q. Tenured faculty in the UT department who have taken a</p> <p>8 leave of absence of a semester or more, (not including absences</p> <p>9 covered under the FMLA). Since Dr. Nikolova began at UT the</p> <p>10 reason for those absences and any policies and facts that</p> <p>11 govern the ability of tenured faculty members to take a leave</p> <p>12 of absence. So let's start with the list.</p> <p>13 A. Okay. So we have a database of leave requests that we</p> <p>14 enter into and I pulled those -- pulled that data and then</p> <p>15 started to refine it based on the parameters in the topic,</p> <p>16 specifically tenured faculty, right, who have taken a leave of</p> <p>17 absence of a semester or more and since Dr. Nikolova began at</p> <p>18 UT and -- so I do have some notes just that I have written down</p> <p>19 that I can also provide kind of at the bottom of my topics page</p> <p>20 where I found 13 individuals have met those parameters.</p> <p>21 Q. Why don't you just go ahead and include those in your</p> <p>22 scanned version. I'll put all those notes in number 50.</p> <p>23 A. Okay, be happy to.</p> <p>24 Q. All right. So those 13 individuals, do we -- I</p> <p>25 guess, do we have -- they had different periods of time where</p>
<p style="text-align: right;">107</p> <p>1 Q. So how would UT handle it if there was a difference</p> <p>2 in the experience?</p> <p>3 MS. HILTON: I'm going to object to outside the</p> <p>4 scope but, Carmen, you can go ahead and answer.</p> <p>5 A. I am not aware of those -- of that set of facts</p> <p>6 presenting itself in a family situation. In addition, when</p> <p>7 individuals are reviewed for promotion, it isn't comparative to</p> <p>8 their partner or spouse which I don't think that's what you</p> <p>9 were asking.</p> <p>10 Q. Well, let me ask it this way. In relation to the</p> <p>11 child. Has UT done anything to study, understand, or modify</p> <p>12 the policy based upon the fact that women actually go through</p> <p>13 the birth of the child and have a draft of potential</p> <p>14 consequences on their physical self and emotional and</p> <p>15 psychological self that men don't have?</p> <p>16 MS. HILTON: I'm going to object to -- sorry.</p> <p>17 Are you done with your question? I didn't mean to interrupt.</p> <p>18 I apologize. I object to outside the scope. But, again,</p> <p>19 Carmen, you can go ahead and answer.</p> <p>20 A. I don't know if the university has done any, I think</p> <p>21 you said research.</p> <p>22 Q. Study.</p> <p>23 A. Study?</p> <p>24 Q. Yes.</p> <p>25 A. Related to our employees who have taken probationary</p>	<p style="text-align: right;">109</p> <p>1 they were on leave?</p> <p>2 A. Yes.</p> <p>3 Q. Either a semester or more?</p> <p>4 A. Yes.</p> <p>5 Q. What's the longest leave.</p> <p>6 A. May I look at the reference document I have?</p> <p>7 Q. Sure.</p> <p>8 A. Okay. To see what the longest period -- well, so our</p> <p>9 information captures this by request so I'm looking at years at</p> <p>10 a time. It is possible that someone in here may have had two</p> <p>11 years in a row. The data is just not organized that way.</p> <p>12 Q. Are these two separate requests?</p> <p>13 A. Yes, each year would have had it's own request.</p> <p>14 Q. And you're going to provide me with that list of</p> <p>15 people?</p> <p>16 A. Yes, I can provide you with this Excel sheet that I'm</p> <p>17 looking at.</p> <p>18 Q. Okay. And the list it of people and the leaves they</p> <p>19 had?</p> <p>20 A. Yes.</p> <p>21 Q. Okay.</p> <p>22 A. Yes.</p> <p>23 Q. And it indicates time of the leave and length of the</p> <p>24 leave?</p> <p>25 A. Yes, it does, it has the year, the semester, if it's</p>

<p>110</p> <p>1 less than a year it has the semester, it has the reason, if it 2 is approved. Looks like one from last year is pending. I'm 3 not sure what that means, and that it shows that they were all 4 in ECE.</p> <p>5 Q. Okay. And what are the -- so that covers everything 6 up to the and any policies and practices that govern?</p> <p>7 A. Yes. So there is a handbook of operating procedures, 8 2-2210 I can also pull up or look up and it simply -- it's 9 really more of a process sort of. This is when a leave is in 10 the best interest of the university, a faculty member may 11 request it and that request has to be approved by the 12 department chair, the Dean and the Provost office in the case 13 of a leave of absence and the University of Texas can approve 14 up to two consecutive years, a third consecutive year has to 15 have UT system approval. And I did also in preparing for this 16 topic checked with the Dean's office in engineering 17 specifically Jerry Speitel, Gerald Speitel to see if there was 18 some sort of program or policy specific to the department that 19 wasn't -- that I wasn't aware of or that wasn't part of the UT 20 policy and as far as leave of absences go, there are not.</p> <p>21 MR. NOTZON: Amy, do we have that policy HOP 22 2-2210 has that been --</p> <p>23 MS. HILTON: I believe so. Let me check real 24 quick.</p> <p>25 MR. NOTZON: Okay.</p>	<p>112</p> <p>1 Q. So the consideration by the Chair, Dean and Provost 2 would be to their discretion without policy guidelines to help 3 them decide "yes" or "no." It would just be based upon the 4 circumstances provided by the faculty member making the request 5 and whether it's granted?</p> <p>6 A. And the approver's assessment of whether that leave 7 would be in the university's best interest or not.</p> <p>8 Q. Okay. But using that general guide of the 9 university's best interest would be the only limitation?</p> <p>10 A. And the constraint on the number of years, 11 consecutive years.</p> <p>12 Q. That you testified. Okay.</p> <p>13 A. Thank you.</p> <p>14 Q. Okay. All right. Let me have a couple of minutes. 15 Don't go too far I've just got to check with my co-counsel and 16 decide if I've got anymore questions.</p> <p>17 (A recess was taken at 1:11 p.m.).</p> <p>18 Q. Okay. On the CCAFR member that you spoke to, what was 19 her name again?</p> <p>20 A. Pauline Strong.</p> <p>21 Q. Okay.</p> <p>22 A. Okay.</p> <p>23 Q. What do you recall her providing you in terms of 24 information to testify today?</p> <p>25 A. Certainly. It was a brief conversation. I asked her</p>
<p>111</p> <p>1 A. It's called faculty leaves and special academic 2 assignments.</p> <p>3 MR. NOTZON: If we have that then we don't have 4 to make it an exhibit.</p> <p>5 MS. HILTON: Yeah, certainly if you don't have it 6 we'll produce it but let me see if I can find it quickly.</p> <p>7 MR. NOTZON: Why don't we just make that 8 Exhibit 53, okay?</p> <p>9 MS. HILTON: All right. 10 (Exhibit 53 identified.)</p> <p>11 Q. (BY MR. NOTZON) That policy, HOP 2-2210, Ms. Shockley 12 we'll just make that Exhibit 53, okay?</p> <p>13 A. Okay.</p> <p>14 Q. Just to ask you a question about it. Is there any 15 limitation to when the tenured faculty has access to that 16 leave? Do they have to -- can they have it in their first year 17 of tenure or do they have to wait some X number of years before 18 they have access to that?</p> <p>19 A. Let me clarify that. That policy is not only 20 specific to tenured faculty.</p> <p>21 Q. Okay.</p> <p>22 A. Okay. So it is all faculty are governed by it and, 23 no, it does not give a specific period of service in which 24 someone would be eligible or which someone would be eligible 25 for that.</p>	<p>113</p> <p>1 if there were any -- if she had -- not she but the subcommittee 2 had any conversations or reviewed any materials that were not 3 part of the CCAFR report and she said they did not and there 4 were not so I confirmed then that the report was complete and 5 if I testified that that was their process of inquiry that I 6 would be testifying truthfully. She said yes. I did ask her 7 about the -- in CCFAR's report they attach interview notes from 8 their interviews with Dr. Nikolova, Dr. Tewfik and Dr. Wood and 9 I noted in reviewing that that Dr. Nikolova's interview ended 10 with a line about -- I don't remember if she used both gender 11 and pregnancy bias and discrimination I'd have to look I'm 12 happy to look at that just to tell you exactly what it said 13 that's the last line of the interview notes and so I also asked 14 Dr. Strong if there was anything else said about that because 15 it ended there and she said her recollection was that they did 16 not discuss that further with Dr. Nikolova. They recalled that 17 she said she couldn't recall if she was crying at that point 18 but that she was emotional about the conversation. The report 19 notes that it was a 90-minute long conversation. She offered 20 to me that they did talk about that aspect as a subcommittee 21 and did not for themselves as a CCAFR subcommittee, one did not 22 feel like it was within the scope of their review and possibly 23 better handled in a grievance or with another office or through 24 other avenues open to Dr. Nikolova. They did not see the 25 evidence for that themselves is what they she me they recalled</p>

<p>114</p> <p>1 but she qualified that with that's not what -- that was not  2 within the scope of what our subcommittee was there to talk  3 about.  4 Q. They didn't explore it sufficiently or put the time  5 into it because that's not what we do kind of thing?  6 A. Right. I think that's an accurate assessment.  7 Q. Okay. All right. And then back -- so that's the end  8 of your corporate hat.  9 A. Okay.  10 Q. Just one more time with your Shockley hat. Do you  11 recall speaking to anybody that communicated to you that they  12 felt like Dr. Nikolova should have received tenure in the  13 spring of 2019?  14 A. I recall talking with professor Brian Evans who was a  15 chair of CCAFR -- this was at the time not preparing for today.  16 I recall talking to him about this case. I don't recall that  17 he said what you just asked me. She should have received  18 tenure. But I do recall that he had concerns about the  19 decision.  20 Q. Okay. And did you -- did he just make that comment or  21 was there a discussion about it?  22 A. We were having a discussion. Actually I believe we  23 may have been talking about the guidelines for coming year. As  24 I mentioned, they are reviewed every year and put forward and  25 he was the chair of CCAFR at that time and we were talking</p>	<p>116</p> <p>1 making.  2 Q. Pass the witness.  3 MS. HILTON: We'll reserve for trial.  4 (The proceedings concluded at 1:23 P.M.)  5  6  7  8  9  10  11  12  13  14  15  16  17  18  19  20  21  22  23  24  25</p>
<p>115</p> <p>1 about that and it came up -- I believe it came up in the  2 context of discussing the general guidelines. It was not -- I  3 don't recall -- what am I trying to say -- reacting in a way  4 that would encourage further discussion about her case because  5 that would not be appropriate in my role.  6 Q. Okay. And then did you feel that Dr. Nikolova's  7 qualifications merited tenure from your hundreds maybe  8 thousands experiences as compared with other individuals that  9 have received tenure under similar circumstances?  10 A. So, yes, speaking as Carmen Shockley who doesn't have  11 a voice in the decision and isn't one of the decision makers,  12 while I don't recall all of the specifics of her file, I do not  13 recall having concerns or a disagreement with -- just in my own  14 mind -- with the President's decision.  15 Q. Okay. And slightly different question, did you see or  16 observe that the factors that were called out to criticize Dr.  17 Nikolova were not factors that were focused on or relied upon  18 in the tenure review of other candidates? In other words, Dr.  19 Nikolova was faulted or criticized for saying that other people  20 weren't faulted or criticized.  21 MS. HILTON: Objection. Form.  22 A. I don't recall that. I also don't recall the  23 specifics of the case. That would have led to a concern on my  24 part as testified, I do not -- I did not leave that year with  25 any concerns about the outcomes -- outcomes of the decision</p>	<p>117</p> <p>1 SIGNATURE AND CHANGES  2 WITNESS NAME: CARMEN SHOCKLEY  3 DATE, MAY 28, 2021  4 PAGE LINE CHANGE REASON  5 _____  6 _____  7 _____  8 _____  9 _____  10 _____  11 _____  12 _____  13 _____  14 _____  15 _____  16 _____  17 _____  18 _____  19 _____  20 _____  21 _____  22 _____  23 _____  24 _____  25 _____</p>

<p>118</p> <p>1 SIGNATURE PAGE</p> <p>2 I, CARMEN SHOCKLEY, have read the foregoing</p> <p>3 deposition and hereby affix my signature that same is true and</p> <p>4 correct, except as noted on the correction page.</p> <p>5</p> <p>6 _____</p> <p>7 CARMEN SHOCKLEY</p> <p>8 THE STATE of _____ )</p> <p>9 COUNTY of _____ )</p> <p>10 Before me _____ on this day</p> <p>11 personally appeared _____ known to me [or</p> <p>12 proved to me on the oath of _____ or through</p> <p>13 _____ (description of identity card or other</p> <p>14 document)] to be the person whose name is subscribed to the</p> <p>15 foregoing instrument and acknowledged to me that he/she</p> <p>16 executed the same for the purposes and consideration therein</p> <p>17 expressed.</p> <p>18 Given under my hand and seal of office this</p> <p>19 _____ day of _____, 2021.</p> <p>20 _____</p> <p>21 NOTARY PUBLIC in AND FOR</p> <p>22 THE STATE of _____</p> <p>23</p> <p>24 My Commission Expires: _____</p> <p>25</p>	
<p>119</p> <p>1 COUNTY OF DALLAS )</p> <p>2 STATE OF TEXAS )</p> <p>3 REPORTER'S CERTIFICATION</p> <p>4 I, JACQUELINE LOVE-WORLINE, CSR, hereby</p> <p>5 certify that the witness was duly sworn and that this</p> <p>6 transcript is a true record of the testimony given by</p> <p>7 the witness.</p> <p>8 I further certify that I am neither</p> <p>9 counsel for, related to, nor employed by any of the</p> <p>10 parties or attorneys in the action in which this</p> <p>11 proceeding was taken. Further, I am not a relative or</p> <p>12 employee of any attorney of record in this cause, nor am</p> <p>13 I financially or otherwise interested in the outcome of</p> <p>14 the action.</p> <p>15 Subscribed and sworn to on this, the 22nd day of</p> <p>16 June, 2021.</p> <p>17</p> <p>18</p> <p>19</p> <p>20 _____</p> <p>21 JACQUELINE LOVE-WORLINE, CSR NO. 8970</p> <p>22 Expiration Date: 11/30/2022</p> <p>23 Firm Registration No.: 528</p> <p>24 FOR: INTEGRITY LEGAL SUPPORT SOLUTIONS</p> <p>25 PO Box 245</p> <p>Manchaca, TX 78652</p> <p>Telephone: 512-320-8690</p>	





<b>Numbers</b>		
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**EXHIBIT 24**

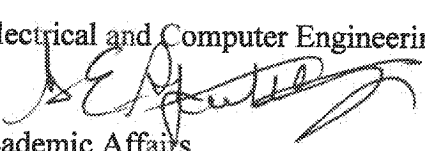
**COCKRELL SCHOOL OF ENGINEERING**  
Office of the Dean

301 E. Dean Keeton Street Stop C2104 • Austin, Texas 78712-1180 • 512-471-1166

Associate Dean for Academic Affairs  
ECJ 10.322, MC C2100  
(512) 471-7995  
email: speitel@mail.utexas.edu

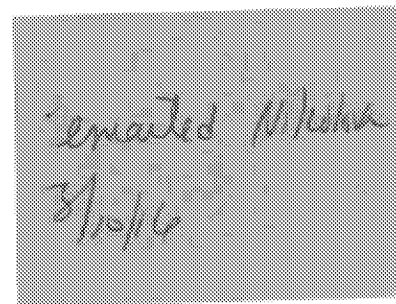
**MEMORANDUM**

TO: Evdokia Nikolova  
Assistant Professor, Electrical and Computer Engineering

FROM: Gerald E. Speitel Jr.   
Associate Dean for Academic Affairs

DATE: November 20, 2015

SUBJECT: Approval of Probationary Period Extension



This is to let you know that your request for modified instructional duties for spring 2016 has been approved by Senior Vice Provost Janet Dukerich. This approval is granted on the basis that you will be giving birth in March 2016 and will be the primary caregiver of your child during this time.

Use of available sick leave should be recorded on the Faculty Monthly Report of Sick Leave Taken form and submitted to your department chair's office. Family Medical Leave may be used in conjunction with sick leave and should be recorded when applicable. NOTE: In accordance with HOP 5-4210, sick leave may not be used in conjunction with Parental Leave or Family and Medical Leave once an employee has recovered from the temporary incapacity related to pregnancy. More information can be found at <http://bit.ly/HOP5-4210>.

In addition, attached is the approval from the Provost's Office for your request for a one year extension of your probationary period. As noted in the memo, please read and then sign to indicate your understanding of the extension. The signed original should be returned to my office, and we will forward to the Provost's Office for you. You may keep the copy of the approval for your records.

Please do not hesitate to contact me should you have any questions.

GES:sds

Attachments

c: Ahmed H. Tewfik, Department Chair, Electrical and Computer Engineering

**EXECUTIVE VICE PRESIDENT AND PROVOST**

The University of Texas at Austin

110 Inner Campus Drive, Suite 201 • G1000 • Austin, Texas 78712-0538 • (512) 471-4363 • FAX (512) 475-7385

November 11, 2015

Dr. Gerald E. Speitel, Jr.  
 Associate Dean for Academic Affairs  
 Cockrell School of Engineering  
 C2100

Dear Jerry:

Please advise Assistant Professor Evdokia Nikolova that the request for a one-year probationary period extension for reason of childbirth has been applied.

Professor Nikolova joined the faculty of the Department of Electrical and Computer Engineering in January of 2014. With this extension, the university will no longer count the 2015-16 academic year toward fulfillment of the required probationary period of service and it is projected that Professor Nikolova's mandatory promotion and tenure review will likely occur in the fall of 2020 per the chart below:

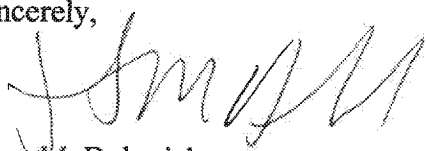
Academic Year	Probationary Period Status
2013-14	Partial Year - Does not count toward probationary period
2014-15	Probation – Year 1
2015-16	Extension Year - Does not count toward probationary period
2016-17	Probation – Year 2
2017-18	Probation – Year 3
2018-19	Probation – Year 4
2019-20	Probation – Year 5
2020-21	Probation – Year 6 - Projected year of up/out review

This approved extension to the probationary period may be rescinded at Professor Nikolova's discretion. A request to rescind an approved probationary period extension should be submitted in writing to the department chair no later than February 1 prior to the fall promotion review. If the approved extension is rescinded, then Professor Nikolova's mandatory promotion and tenure review will occur one year earlier than indicated in the chart above.

Dr. Gerald E. Speitel, Jr  
November 11, 2015  
Page 2

Please ask Professor Nikolova to sign and return the original of this letter to the Office of the Executive Vice President and Provost, G1000. A copy of this approval should be placed in the departmental and dean's office faculty personnel files.

Sincerely,

  
Janet M. Dukerich  
Senior Vice Provost for Faculty Affairs

JMD /dh

xc: Dean Sharon L. Wood  
Professor Ahmed Tewfik

**Agreed:**

\_\_\_\_\_  
Dr. Evdokia Nikolova, Assistant Professor

Date: \_\_\_\_\_

Cockrell School of Engineering  
Academic Affairs Office

OCT 26 2015

Attachment A  
Policy Number 5.C.1  
September 1, 2006

## THE UNIVERSITY OF TEXAS AT AUSTIN

NOTIFICATION/DECLINATION OF AUTOMATIC PROBATIONARY PERIOD EXTENSION  
FOR REASON OF CHILDBIRTH and/or ADOPTION

Name of faculty member: Evdokia Nikolova

Faculty rank: Assistant Professor

Department: Electrical and Computer Engineering

School/College: Cockrell School of Engineering

Date of birth/adoption 03/17/2016  
mm/dd/yyyy  
(Actual or expected date, as appropriate.)

## A. NOTIFICATION OF AUTOMATIC EXTENSION

I elect the automatic extension for reason of childbirth ☒ / adoption ☐.Academic Year to which extension is to apply: 2015-16

*Plan for Instructional and Academic Responsibilities:* I will fulfill [did fulfill] my instructional responsibilities as agreed upon with my Department Chair, and I will pursue [did pursue] my research and publication activities to the extent possible during this period. ☒

Sds per Cawle  
Bearden  
10/26

## B. DECLINATION OF AUTOMATIC EXTENSION

I decline the automatic extension for reason of childbirth ☐ / adoption ☐.

## Signatures

Faculty Member	<u>[Signature]</u>	Date	<u>10/23/2015</u>
Department Chair	<u>[Signature]</u>	Date	<u>10/26/2015</u>
Director	<u>[Signature]</u>	Date	<u>10/28/15</u>
Dean	<u>[Signature]</u>	Date	<u>10/28/15</u>
Provost	<u>See approval letter</u>	Date	<u>                    </u>



en 4762

x.c. Sonya Shaffer



THE UNIVERSITY OF TEXAS AT AUSTIN  
COCKRELL SCHOOL OF ENGINEERING, OFFICE OF THE DEAN

301 E. Dean Keeton Street • Stop C2100 • Austin, TX 78712 • (512) 471-1166

Associate Dean for Academic Affairs  
ECJ 10.322, MC C2100  
(512) 471-7995  
email: speitel@mail.utexas.edu

**MEMORANDUM**

Approved by [Signature] Date 11/13/15  
Janet M. Dukerich  
Senior Vice Provost for Faculty Affairs

TO: Janet M. Dukerich  
Senior Vice Provost for Faculty Affairs

FROM: Gerald E. Speitel Jr. [Signature]  
Associate Dean for Academic Affairs

DATE: October 27, 2015

SUBJECT: Modified Instructional Duties for Evdokia Nikolova

2/29 Cawle to  
have signed today  
✓ send.

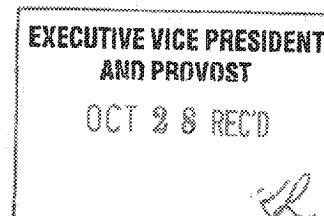
Attached is a request for modified instructional duties for Dr. Evdokia Nikolova, Assistant Professor in Electrical and Computer Engineering. Dr. Nikolova is expecting her first child in March 2016. She is requesting modified instructional duties for the spring 2016 semester. While on modified instructional duties, Dr. Nikolova will work on enhancing course materials for graduate class EE 381V. (1)

Dr. Nikolova is also electing the automatic extension for reasons of childbirth and wishes to apply the extension to the 2015-16 academic year. (2)

The Cockrell School supports this request. If you need any additional information, please contact me.

GES:sds

Enclosures: Approval Memo from Dr. Ahmed Tewfik  
MID Request from Dr. Evdokia Nikolova  
Notification Form of Automatic Probationary Period Extension







# EXHIBIT 25



The University of Texas at Austin  
University Policy Office

Exhibit  
Carmen Shockley

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05/28/2021 JL

Handbook of Operating Procedures 2-2020

## Extension of the Tenure Track Probationary Period

The University of Texas at Austin

Executive Sponsor: Executive Vice President and Provost

September 1, 1997

Regents' Rules and Regulations **Rule 31007** (<http://www.utsystem.edu/board-of-regents/rules/31007-tenure>), provides for the extension of the tenure track probationary period for faculty under certain circumstances. An extension of the probationary period is never automatic but is granted in the best interest of The University of Texas at Austin and its faculty to promote and tenure faculty of the highest quality, based on a process and procedures that are fair, equitable, and humane.

A tenure track faculty member who determines that certain personal circumstances may impede his or her progress toward achieving demonstration of eligibility for recommendation of the award of tenure may make a written request for extension of the probationary period specifying the reasons for the requested extension. Personal circumstances that may justify the extension include, but are not restricted to: disability or illness of the faculty member; status of the faculty member as the principal caregiver of a preschool child; or, status of the faculty member as a principal caregiver of a disabled, elderly, or ill member of the family of the faculty member. It is the responsibility of the faculty member to provide appropriate documentation to adequately demonstrate why the request should be granted. The documentation should include substantiation of why the circumstance placed an unreasonable burden upon the ability of the faculty member to meet progress expectations.

Requests for an extension must be submitted to the department chair (or dean in non departmentalized colleges/schools). The request should be made during or in advance of the academic year or semester in which the extension is justified and shall not be made later than the end of the spring semester before the faculty member's sixth year of full-time probationary service ("up-or-out year"). Faculty members should not wait to request an extension but should make the request whenever it becomes clear that circumstances consistent with the policy may warrant it. Also, department chairs who recognize the possible need for a faculty member to request an extension are encouraged to discuss this policy with him or her. The request for an extension shall be limited to one academic year. In exceptional circumstances, a second academic year of extension may be requested and granted. However, the maximum duration of extension, whether consecutive or nonconsecutive, shall be two academic years.

The Executive Vice President and Provost shall decide whether to grant the extension based upon review and consideration of the faculty member's written request and the recommendation of the budget council, department chair, and dean. One consideration will be the faculty member's annual evaluations and record of progress toward eligibility for recommendation of award of tenure prior to the occurrence or circumstance that may justify the extension. The decision of the Executive Vice President and Provost will be made within

Appx.0006

UT Austin\_00764

30 days of his or her receipt of the request and all appropriate documentation unless exceptional circumstances mandate additional time for consideration.

The approval of an extension will be documented in writing and include the reason(s) for the extension, the period of the extension and its effect upon the length of the probationary period, and the plan for the faculty member to meet his or her instructional and other academic responsibilities during the period of the extension. The faculty member will sign this document prior to implementation of the extension. The denial of the extension may be appealed through regular faculty grievance procedures.

Questions regarding this policy may be directed to the Office of the Executive Vice President and Provost 512-232-3320.

Previously HOP 3.11

**EXHIBIT 26**

## Message

**From:** Tewfik, Ahmed H [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=915C4B50497A4B2EAD89250A2B975BE7-TEWFIK AHME]  
**Sent:** 9/12/2018 3:37:45 PM  
**To:** Nikolova, Evdokia [nikolova@austin.utexas.edu]  
**Subject:** promotion vote

Hi Evdokia

I forgot to send you this email on Monday. One Prof. submitted his vote by mail so your total number of yes is 32 .This is a strong vote. Please keep an eye on your email as I will be sending you my letter in the next few days.

Faculty Vote: Evdokia Nikolova Promotion to Associate Professor - Full Professors

Q2 - I approve the promotion of Evdokia Nikolova to the rank of Associate Professor

with tenure

#	Field	Choice	Count
1	YES	91.18%	31
2	NO	2.94%	1
3	ABSTAIN	5.88%	2

Q2 - I approve the promotion of Evdokia Nikolova to the rank of Associate Professor with tenure

#	Field	Choice	Count
1	YES	77.78%	7
2	NO	0.00%	0
3	ABSTAIN	22.22%	2

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regards  
Ahmed

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Ahmed Tewfik  
Cockrell Family Regents Chair in Engineering  
Chairman, Department of Electrical and Computer Engineering  
The University of Texas at Austin  
2501 Speedway Ave.  
EER 2.876  
Austin, TX 78712  
USA

Direct: (512) 471-6179  
[tewfik@austin.utexas.edu](mailto:tewfik@austin.utexas.edu)

**EXHIBIT 27**

THE UNIVERSITY OF TEXAS AT AUSTIN

**RECOMMENDATION FOR CHANGE IN ACADEMIC RANK/STATUS**Name: Nikolova, Evdokia EID: en4762 Present Rank: Assistant ProfessorYears of Academic Service (*Include AY 2018-19 in each count*):At UT Austin since: 1/1/2014 (month/day/year) Total Years at UT Austin: 5.5In Present Rank since: 1/1/2014 (month/day/year) Total Years in Present Rank: 5.5*Tenure-track only:*Number of Years in Probationary Status: 4Additional information: Accelerated; Probationary Extension 2015-16Primary Department: Electrical and Computer EngineeringCollege/School: Engineering, Cockrell School ofJoint Department: N/ACollege/School: N/AOther Department(s): N/ARecommendation actions<sup>1</sup>:By Budget Council/Executive Committee: PromoteVote<sup>2</sup> for promotion 32; Against 1; Abstain 2; Absent 0; Ineligible to vote 2By Department Chair: PromoteBy College/School Advisory Committee: PromoteVote<sup>2</sup> for promotion 7; Against 0; Abstain 0; Absent 0; Ineligible to vote 0By Dean: Do Not Promote

Administrative Action: \_\_\_\_\_

Date Action Effective: September 1, 2019

(To be submitted to the Board of Regents as part of the annual budget.)

By: \_\_\_\_\_ Date: \_\_\_\_\_

For the President

<sup>1</sup>See "Chart of Recommended Actions" for eligible recommended actions applicable to specific conditions and administrative levels.<sup>2</sup>Record all votes for and against promotion, abstentions by eligible voting members, and the number of absent eligible voting members. The number of committee members ineligible to vote should also be recorded. Enter zero where it would otherwise be blank.